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Le mardi 15 janvier1991

Standing committee on government agencies

Appointments review process

Comité permanent des organismes

Procédé d'examen de nomination

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 15 January 1991

The committee met at 1005 in committee room 1.

APPOINTMENTS REVIEW PROCESS

The Chair: Members of the committee, today is the first meeting of the standing committee on government agencies operating under substantially revised rules given to us by the House on 20 December 1990. Since 1978 when our predecessor standing committee on procedural affairs began the task, the function of the committee has been to select and review a small number of agencies, boards and commissions each year. From now on, if our provisional rules or something like them become permanent, our primary responsibility is to review intended appointments in the public sector.

The proposed schedule on your desk for committee meetings in the coming weeks will serve four aims. It provides in the first week an introduction to our new appointments review process from a number of perspectives, those of the committee staff, the government, executive search consultants, the staff lawyer with the Macaulay review of regulatory agencies and a federal committee chairman. At later meetings we hope to have the additional viewpoints of some federal opposition members and a US congressional expert.

In later weeks, the schedule balances the committee's traditional agencies reviews with a review of intended appointments. In so doing, the schedule introduces members to the strict time lines for appointment reviews built into the provisional rules and offers an option for meeting them.

Finally, as requested by committee members, time has been allowed to expand the traditional agencies review to hear from clients served by the agencies under scrutiny. If it is the wish of committee members, time can be made to discuss revisions to the committee schedule.

As committee Chair, it is my belief that the new responsibilities of the committee will not detract from our ability to conduct effective oversight of agencies, boards and commissions. In focusing our attention on the job requirements of positions to be filled, as well as on the matching qualifications and character of intended appointees, committee members may more fully understand the operations of agencies they will be reviewing.

I would now initially call on the committee clerk and the research officer to discuss the appointments process and their respective responsibilities.

Clerk of the Committee: Good morning. Members have previously received from me the terms of reference as passed by the House on 20 December. The first point to be made about them was made by the Chairman and is found just after point 16 in the terms of reference, and that is that these are provisional rules. The House has given the committee this set of rules to operate under until 27 June.

It has given it an additional task, which is found on the following page of the terms of reference, and that is to consider its work while engaged in the activity of reviewing intended appointments under the provisional rules, to think about how that task can best be done and to report to the House on what should be done to allow the committee best to serve this new function. In other words, what should the committee's permanent standing order look like?

I am now going to turn to the flow chart that has been drawn up by the committees branch procedural clerk and just go quickly through the process. The House has contemplated essentially four stages. First, ministers will certify and table with the Clerk of the House a certificate of intended appointees. That is the first stage prior to it coming to the committee. The documents tabled with the Clerk are deemed automatically to be referred to the committee immediately.

The next stage is the selection process. That is vested in the subcommittee on committee business of this committee, or short form SCCB, in the flow chart. That subcommittee already exists and it is to meet to select, in rounds by party, the intended appointees to be reviewed by the full committee. The voice of the subcommittee in selecting is in effect the voice of the full committee. Its report is deemed to be adopted automatically.

The next stage is the actual review of intended appointees by the full committee. That will happen in the order in which they were selected by the subcommittee; that is, by party. Each party's group of selections will be considered by the full committee for a total of three hours, no more, and at the very next meeting the committee will make a determination on whether or not it concurs in the recommendation of those intended appointees. That time period for determination is limited to one hour.

The next stage is that the government agencies committee as a whole reports its determinations, its decisions, to the House, and at this stage the committee's report is deemed to be adopted by the House. In other words, the voice of the committee is the voice of the House in saying yes or no, in concurring with the recommended appointees.

At the next stage, immediately upon reporting, the committee advises the ministry involved and the appointments secretariat of the committee's decision.

The committee clerk's role is important at a number of stages in ensuring that papers are produced to the subcommittee and then to the committee within the time lines required by the provisional rules. The committee clerk must give to the subcommittee, at least five days before its meeting to select, a list of the intended appointees set out in the certificates tabled by the minister or ministers with the clerk. The subcommittee's meeting to make the selections

must happen at least seven days before the actual committee meeting to undertake the reviews.

As well, the committee clerk will give information not only to the appointments secretariat and to the minister involved after the committee has made a determination, but also to anyone in the public who wants to know what the decision of the committee was on this recommended appointee. Did the committee agree or concur in the recommendation, did it not concur, or as two other options set out in the provisional rules, did it waive its right to review these appointees, in which case they could go forward, or did it just not make a recommendation at all and not review them, in which case it is deemed to have made no recommendation?

After the committee research officer provides his view on the rules and his responsibilities, I would be happy to answer any questions.

Mr Pond: This is a new process, not just for the committee but also for the legislative research services. I guess it is safe to say that at this point there is no firm role for the research officer regarding order-in-council appointments review.

I have briefly discussed with the Chair the possibility of my office preparing short background briefing notes on the agencies to which the selected appointees will be sent for the benefit of members when we have the witnesses before us, but I am in the hands of the committee.

Second, very briefly, the subcommittee asked me last year to prepare a memo on the committees of the House of Commons which have reviewed order-in-council appointments in the last few years with a view to determining whether there are any lessons, if that is the right word, that we could draw here. I hope all of you have a copy of the memo. I think the clerk, Doug Arnott, distributed it to you in your offices yesterday.

Very briefly—I will not repeat what I have written—I think the safe conclusion to be drawn from the federal process is that there is no settled interpretation or process for the review by committee of order-in-council appointments. Needless to say, members of the committees in Ottawa which have reviewed order-in-council appointments have wanted to ask a wide range of questions of the witnesses. Whether or not questions about witnesses' political affiliations and backgrounds are in or out of order are really in the hands of the Chair, and that is beyond my purview. That is the role of the clerk.

There is one point I think worth drawing to your attention from the memo. It is likely that members will want to ask witnesses questions about their views on policy with regard to the agency to which they are being appointed. This raises the problem of whether it is appropriate to ask witnesses hypothetical questions about hypothetical situations they may encounter once they are appointed to an agency. It is my observation from the Ottawa experience that many witnesses in that position will decline to answer the question for obvious reasons. They do not want to be caught answering a hypothetical question with a hypothetical answer.

As I say, the memo has been distributed to you, I believe yesterday, and I will leave that with you.

The Chair: We have about 40 minutes before our first witness is scheduled to appear, Carol Phillips from the Premier's office. We will open the floor to questions from members to our researcher and clerk, and any discussion you wish to have about the process that is facing us and would like to discuss. Are there any concerns or questions?

Mr McLean: Maybe I can start off, Mr Chairman. On the review of executive appointments to government agencies, with regard to the minister who tables a recommendation, where do the applications come in to and how does the minister get them to review? What is the process there as they come in?

The Chair: Carol Phillips will expand on that when she appears before us, but the government intends to advertise some of the major positions, and I believe it is doing that already.

I believe they are looking at a process, in virtually every public library across the province, of locating a journal, a log, a book or whatever way they wish to describe it, which will outline every OIC appointment in the province with the per diem rates, etc, and a model application form so that any resident of the province who has an interest in a particular appointment will have the opportunity to make application. As I said, Ms Phillips will expand on that when she appears before us. That is the hope, and I think we have seen a couple of ads that have already been appearing in some of the major daily newspapers.

I wonder if the government members would do the Chair a bit of a favour and put their nameplates a little more straight on because I do not know all of you that well. It will take me a couple of days and then I will not require that. I know you, Pat.

Mr Hayes: I know that David Pond mentioned that you are willing or prepared to give us some kind of a briefing or small report on the various agencies that we may be reviewing. I think that would be worth our while.

The Chair: If you take a look at your schedule—I have a copy in front of me—we are going to try to do this every week before we meet with the agencies. We will spend a couple of hours as a committee reviewing what faces us in the week ahead and the particular agencies and discussing any issues that may arise.

Mr Hayes: That will be helpful.

Mr Silipo: I think, if I understood what Mr Hayes was getting at, he was also referring to what Mr Pond had suggested about having some background information on the agencies to which the appointees would be going in addition to what you have outlined. I think that would be quite useful.

Mr Frankford: Is there such a thing in existence? Is there any comprehensive outline of all the agencies and what they do?

Mr Grandmaître: Oh, yes.

Mr Pond: As you know, the traditional role of the research officer is to prepare material for when the committee looks at agencies, which is its traditional role. You will be getting this in the near future. The research officer prepares quite extensive briefing notes on the agency

before its witnesses appear for the review. What I thought I could do was the same kind of work on a smaller scale, because of the time frames for the agencies to which the order-in-council appointments that the committee selects for review will be going to, and be sort of an extension of the existing role of the legislative research service.

Mr Frankford: In time you are going to need every agency listed.

Mr Pond: That would depend on how many the committee chooses to review in this session.

Mr Frankford: As far as appointments go, it is going to be every agency, is it not?

Mr Pond: Actually, I was thinking of specifically those appointees that the subcommittee and then the full committee actually chooses to call as oral witnesses.

The Chair: Because of time constraints, obviously we are not going to have an opportunity to review the qualifications of each and every recommended appointee. We are simply going to have to pick and choose in the various caucuses the ones we feel are important with respect to having the opportunity to review them. Who knows how many that will be over the course of the years. Experience will tell us, but I do not think it will be an awful lot.

I guess I have a concern which was raised by these comments and may only be a concern that would perhaps create some difficulties initially, because of a number of appointments that are upcoming and some that are backlogged, if you will.

1020

Perhaps Carol Phillips can answer this as well. When the minister or the Premier's office tables a certificate or certificates, I am a little concerned in the initial operations of the committee that we could have a significant number of certificates tabled on one day, if you will, approved by cabinet, which could have five or six or more major appointees—the chairman of the Social Assistance Review Board, the chairman of the Liquor Control Board of Ontario, those kinds of appointments which are upcoming.

It would limit the opportunity in terms of time for us to review those significant appointments. That is a personal concern at this point. I think as time goes on, of course, and the committee is operating and the government gets on with its appointments, we are not going to see that face us too much in the future, but initially we may see that as a problem. Certainly I would suspect the opposition parties might be concerned about that.

Mr Waters: I was just wondering, when I looked through the schedule for tomorrow, tomorrow is blank. Is there anything significant about this?

The Chair: We are going to talk about that as well. We can do it now if you wish. We had hoped to have an individual from Washington. I mentioned that in my opening comments. He is an expert with the research services in the United States Congress. For a variety of reasons, we have not been able to accomplish that, so at this stage the day is open.

It is regrettable. The witnesses who were scheduled to appear today could not move to Wednesday and the witnesses who were scheduled for Thursday could not move to Wednesday either. As it stands now, we have that hole in the middle of the week. Unless we can come up with some creative ideas with which to fill the day tomorrow or part thereof, we are going to have that day off in our sittings.

As the clerk mentioned and I think I may have mentioned in my opening comments too, we are still going to try to have that individual appear before us at some point in the not-too-distant future. We are still trying to arrange that.

Ms Haslam: What I am asking is, is that a confirmed blank morning for us? If it is, then I have appointments that I can fit in to there. I do not want to get here at 9 in the morning and somebody say, "Gee, you are there at 10 now, Karen." What I want to know is, is that a confirmed blank morning?

The Chair: I was going to raise it this morning before we broke for lunch, and if any members had concerns about it or had suggestions on how we could productively fill that time—

Ms Haslam: No, I just need confirmation. That is all.

The Chair: As of now, it is blank and I do not foresee that changing unless some member has some suggestion at this point.

Mr Wiseman: I was just wondering if it might not be useful, if the rest of the committee agrees, if we have some in-depth look at the Macaulay report and what its recommendations were and how useful that might be in future investigations of this committee.

The Chair: Are you suggesting that for tomorrow?

Mr Pond: If you like, I can do a brief runthrough of the Macaulay report at a session tomorrow, and more specifically I suppose on how it could or does affect this committee. That is no problem if you would find that useful.

The Chair: It may be helpful for us with Martin Campbell, who is appearing on Thursday, in preparing us for his appearance as a witness as well, to have a review provided by David. As you can see on the schedule, Mr Campbell will be appearing Thursday morning. He served as a staff lawyer on the Macaulay review. We will have the morning to spend with him. Perhaps tomorrow reviewing Macaulay would be very helpful.

Mr Silipo: I think that would be a good idea. The only thing I was going to add was perhaps what we could do is just before the end of the day have some sense as to whether that could be done in either the morning or the afternoon or whether we need the whole day to do it.

The Chair: Maybe we could get that now. David, how do you feel?

Mr Pond: I am in your hands. If you want it in the morning or the afternoon, it is fine with me.

Mr Silipo: My sense is probably if we were to just pick either the one block of time or the other, then we could take advantage of having the extra couple of hours to do other things.

Mr Pond: Sure.

Mr Grandmaître: What about the morning block?

The Chair: Are we in agreement? Morning? Okay, that is settled.

Anything else on the process, the comments that the researcher made today or the material that you have had provided for the process?

Mr Frankford: I am wondering whether the data we get on appointments and on agencies could be available in a computer form on disc, because I think it could be very interesting to build up a comprehensive database.

Mr Pond: My office cannot, as far as I know, prepare anything quickly on a floppy disc. That is a long story. I do not want to get into it. I do not know about Doug's area of responsibilities, but I know we cannot, not easily.

Clerk of the Committee: I would have to investigate that. I do not know what form the information I get from the appointments secretariat will be in, but I will find out.

Mr Wiseman: Tell him what system we will be using as well. I think everybody is on a different system.

The Chair: Anything else? We are going to have to take a coffee break, I gather, because our witness has not appeared. We will break for 10 minutes and hope the clerk can get our witness here.

The committee recessed at 1029.

1044

CAROL PHILLIPS
GARTH DEE

The Chair: I am going to see a quorum and we will get under way.

Our witnesses are, from the Office of the Premier, Carol Phillips, the director of public appointments, and Garth Dee, the executive assistant to the government House leader. Ms Phillips, perhaps you could begin by giving us an outline of how you see your office operating. I know there were a couple of questions earlier about citizens who have an interest in appointments, etc. Perhaps you could outline for us how you see it functioning once you are under a full head of steam.

Ms Phillips: Okay. The situation as it has been structured until now was one where, if members of the public knew of the appointments available or guessed that there may be appointments coming up, they could send in their résumé either to the ministry or to the Premier's office or to their MPP's constituency office and it may or may not have made its way through to a central talent bank that had been developed in the last couple of years. That talent bank is on a database. When we arrived, however, the talent bank was empty. We have been building it up since then with résumés that have come in subsequent to the last election.

The secretariat as we see it will do it in a more methodical way. There will be an annual general advertisement that will go into a large number of newspapers, community-based newspapers and so on, which will let people know that there are a number of public appointments for which we need interested citizens to put their names forward. It will give those people an address where to send those résumés or, by the spring, where to send the application forms that we are developing right now. These will go out towards the end of March, mid-April, along with a directory of all agencies, boards and commissions, their mandates, term of office, the incumbents and remuneration.

All those things will be available in a general way. The secretariat will be set up in order to receive and process, acknowledge those application forms and file them. If there is an indication on the application form of specific agency, board or commission appointments that the citizen is interested in, that will be recorded in such a way that when an opening occurs, they will appear again. They will reappear in a systematic way, so that those individuals who have put their names forward can be considered.

The secretariat will be a civil service secretariat. At the present time, there are two people in cabinet office who are responsible for receiving the résumés that are forwarded through us and maintaining a database and responding. We imagine it will grow because of the increased public attention. We cannot really speak to how much it will grow. It is a situation where we want to be able to gauge the degree of public interest. We believe, based on the reaction to the announcement before Christmas, that there will be a lot of public interest, but we want to see it grow that way.

The secretariat will also be responsible for putting together information, as it has in the past, for cabinet to consider when the order in council goes before cabinet, plus the additional task now of putting that information together for this committee and for monitoring how those potential appointees are proceeding through this committee. That is how we see that the secretariat itself is going to function.

The Chair: Before we open for questions, I would ask Mr Dee if he would like to make some comments on this point.

Mr Dee: Perhaps just to explain why my presence might be thought useful here today, given the Premier's statement regarding how appointments were to be handled, it was necessary to develop a procedure that would allow this committee to review the suggested appointments. My role in this process has been to provide assistance in actually drafting and coming up with the ideas for the temporary standing order that provides advice or governs how this committee is to handle itself in looking at the appointments.

I was also involved in the drafting of the motion that allows this committee to make recommendations with respect to a permanent or a long-term revision to the standing orders to allow the review of these appointments.

I would be happy to answer any questions about the process this committee has available to it to review the appointments.

The Chair: Thank you very much. Does the committee have questions or comments at this point?

Mr Grandmaître: As Ms Phillips just pointed out, and I have already seen it in a few newspapers, they are

looking for people to sit on different committees and commissions and so on. These people will have to write in or fill out an application form. Would it not be of service to you or the secretariat if every constituency office had these forms available, instead of phoning in or writing in for these applications? Would it not be of service to you if every constituency office had these applications, so that they could be forwarded to your secretariat?

Ms Phillips: Yes, it certainly would, and there is absolutely no reason why the constituency offices could not have those application forms there. On the book and the application forms themselves, the way we decided we would initially distribute them, and that is not to preclude other options, was to do it through the public library system. There is no reason, however, why the constituency offices themselves could not have the application forms and perhaps a copy of the book as well.

1050

Mr Grandmaître: One more question, on the talent bank: Did you say it was dry?

The Chair: We knew that for years.

Mr Grandmaître: We are being recorded. That is why I am not answering.

Ms Phillips: I did not use the word "dry" in order to indicate that there was no talent.

Mr Grandmaître: No, no. I did not mean it that way—only the Chairman.

Ms Phillips: It had been taken by the previous government for whatever reason. We hope to be able to create a talent bank that would be seen as full of individuals who had indicated interest and that there would not be the nervousness that there sometimes is about that indicating partisan affiliation as well.

Mr Grandmaître: Good luck.

Ms Phillips: Thank you.

Mr Bradley: Was Bruce Kidd in that talent bank?

The Chair: Perhaps I could ask a question, Ms Phillips. This is a concern I have and perhaps it would only apply during the initial stages of getting the secretariat up and running as you contemplate seeing it operate. My concern would be, as a subcommittee member and as a committee member, that the subcommittee is not faced with the decision in the next few months of perhaps having five order-in-council appointments placed before it on a Thursday, for example, following a cabinet meeting, which involved chairmanships, significant appointments, let's say four or five significant appointments, and then having to decide among those which ones it can allocate time to review. That is my major concern, that if there are going to be significant appointments, they can be, if at all possible, phased in over a period of weeks rather than having the committee faced with that sort of decision. Mr Dee may have some comment on that.

I do not know if we could defer. Because of the standing order, it seems to me that if we have five significant appointments tabled we have to very early on, as a subcommittee, make a decision and then deal with them as quickly as possible. I do not know if you see what I am getting at, that there may be the chairmanship of Ontario Hydro, the chairmanship of the Social Assistance Review Board, the chairmanship of the Liquor Control Board of Ontario, a variety of significant appointments that we may wish to take a look at, but because of those constraints we are only going to be able to look at perhaps one or two.

Mr Dee: That is a problem. The other interest that we had to pay attention to in drafting how the procedures of the committee would work is that with important appointments it is also important that they be in place without undue delay; in other words, to provide enough time for the review to take place if this committee wants to review but also to make sure that for the appointments that this committee does not review, the appointments are not held up. I think it would be undesirable to have a flood of very important appointments at one point in the year and nothing at some other point in the year. Ms Phillips is perhaps the one to advise you about whether that is possible, to stagger their coming in, but you are correct that the procedures here demand that you be able to deal with them within a limited period of time.

It is possible that in any one day you may deal with more than one appointment. Of course, that cuts into your ability to get to it in a great deal of detail, but the potential is there to do reviews without witnesses, to have witnesses split the time that is available to committee. So if there was an appointment that you absolutely wanted to take at least some look at, there is provision there. If you have any suggestions for long-term amendments to the standing orders that would allow us to be able to deal with that situation, I think that is something we would look favourably on.

Ms Phillips: Certainly with the initial group of appointments, as a result of a freeze, there may be a bunching up on the chairs. We are going to do our best to avoid that because it is not also in our interests to have that happen. We do not want the perception that we may be trying to bunch up so that the committee itself is left with difficult choices to make on reviews. It will, of course, work itself out in the long run. Initially though, we are certainly going to try to be sensitive to that.

The Chair: Good. I am glad to hear that.

Mr Bradley: Just for a matter of clarification, I assume this committee does not have the power of veto over any of the appointments that the cabinet will be making.

Ms Phillips: No, the committee does not have the right to veto.

Mr Bradley: So the Premier will make the final decision on who shall be appointed.

Ms Phillips: The Premier will make the final decision but will also have before him this committee's recommendation on anything that it has chosen to review.

Mr Bradley: He can be assured of the support, I would think, of the majority of the committee, if I can count, on any particular occasion.

The Chair: The clerk reminds me that the committee's report is deemed to be the report of the House as well.

Mr Bradley: Just clarify for me again, if you will, what has happened since 1 October. Let's say that an appointment lapsed 1 November. Have those people simply been extended for a period of time? Have there been appointments made? What has happened with that?

Ms Phillips: There have been extensions where the legislation allowed. For the most part, the legislation on all these agencies, boards and commissions has allowed extensions. We have avoided full term. On many of the reappointments, although this committee does not deal with the reappointments, we have also extended rather than go full term, until we got this position in place. We have made—I am trying to think because I want to be accurate on this—decisions to extend only since October.

Mr Bradley: Is there any specific period of time that you have extended? Has it been six months as a general rule, or a year?

Ms Phillips: It has been anywhere from three months to a year, depending on the makeup of the rest of the committee, what kind of expirations were coming up, what made sense.

Mr Bradley: The committee, one would presume, would be dealing largely with what people would consider to be the significant appointments, although all appointments obviously are significant. The chair of Hydro is an example that committee might be reviewing. I have another question I had better write down as well.

What about the thousands, or at least hundreds, of other positions, a lot of local conservation authority ones and those kinds? Are they to be reviewed by this committee as well? Is that what you envisage happening?

Ms Phillips: All appointments to agencies, boards and commissions that are OIC appointments will come before this committee for this committee to have the option of deciding what it wants to review.

Mr Bradley: Since there are some 5,000 appointments—

Ms Phillips: There are over 5,000.

Mr Bradley: —over 5,000 appointments, one would presume this committee will not be able to significantly scrutinize many of those particular decisions. So the committee—it is not for you to decide; I guess it is an unfair question to you—then has to decide what it will do.

The Chair: Subcommittee.

Mr Bradley: Or subcommittee. What role will the defeated New Democratic Party candidates have in this whole process, since it is alleged—I do not know, with justification or not—that if you want to be considered seriously in some parts of the province, you talk to the defeated NDP candidate? What role will the defeated NDP candidate have in Bruce or some other counties that I might pull out of a hat, Cornwall?

Ms Phillips: I am sorry, I do not know about that allegation.

Mr Bradley: So you do not know what role they would play. You have not heard the allegation so you do not know what role they would play if they were to announce in their community, "If you want to get something, you better talk to me." You would not know anything about that.

Ms Phillips: No. That certainly is not part of this process.

1100

Mr Bradley: Reappointments are another question I would have. Did I hear it correctly that we do not deal with reappointments in this committee?

Ms Phillips: That is correct. You are dealing with the initial appointment. Most reappointments, of course, that will be coming up for consideration will have been appointments made by the previous government.

Mr Bradley: What if the committee does not consider the people in those positions to be functioning as they should? Perhaps I can direct this more to the Chairman, or I will let Ms Phillips or the Chairman make a decision on who wants to answer. What happens, for instance, if an appointment made by the previous government is one that members of the committee are not happy with and the person may not be carrying out the functions appropriately? Or indeed if this government were to make an appointment and that person came up for reappointment and that person was not carrying out a rule effectively, would it not be advisable for the committee to have that ability to deal with those reappointments? Because a person once appointed sometimes changes. Even people elected sometimes change after they are elected.

The Chair: Do you want to respond to that?

Ms Phillips: The only response I can give in terms of appointments and reappointments is that we will be following previous precedent in terms of most appointments being for a term, that being three years, and a reappointment not necessarily being automatic but being for a term and there being only one reappointment in most cases.

The Chair: The other comment of course is that we are required to perhaps amend the standing order in respect of the responsibilities of the committee, so that certainly is an area that we could look at.

Mr Silipo: Perhaps either Mr Dee or Ms Phillips could outline where we are in the process at this point in terms of when we could, for example, expect the first number of appointments. That might help the committee in terms of beginning to plan its particular subcommittee, I gather, in beginning to plan its work.

Ms Phillips: In terms of the process, I think this committee could probably expect—and this is going on our calls to the ministries about where the backlog is—the first orders in council to be before it after next week's cabinet. Of course, I cannot speak to the cabinet agenda for next week, but I think that is when you can expect to be dealing with the first.

The Chair: Mr Hayes, did you have a question?

Mr Hayes: I guess you have to direct your question to the people who are here, and I am just a little concerned about accusations that are made here about former NDP candidates who are going to be making appointments or things of that nature. I think if someone on this committee

makes those kind of statements, he should be prepared to back them up.

I would like to ask a question of Ms Phillips. How big a change is this, compared to the way appointments were made by the previous governments?

Ms Phillips: The change in terms of a legislative committee reviewing the appointments is a fairly major change. The recommendations to do this came out of a standing committee report back in, I believe it was, 1986. That was an all-party committee report. We have decided to take a major part of that report and implement it, a decision that was different from the previous government's decision, so it represents a major change in appointments.

Mr Hayes: So in fact what we are doing now in 1990 is fulfilling some of the recommendations of that all-party committee. Am I correct in saying that?

Ms Phillips: Yes.

Mr Hayes: Okay, thank you.

Mr Frankford: I would like to raise again the question of getting data in computer-readable form. I think if you are going to end up with a list of 5,000 people and also data on 500, or whatever it is, agencies, it would be very nice to have that in a computer-readable form. If this is all starting from scratch, why not pick up that opportunity and do it right from the start?

Ms Phillips: The issue of access to this information is one that we will be dealing with in an ongoing way. Access, as well, for the disabled is something we are taking a look at and getting advice on so that we have a disabled community that is able to easily get information on agencies, boards, commissions and appointments.

Mr Frankford: If you just do it on disc, it is very easy.

Ms Phillips: Right.

Mr McGuinty: A question for Ms Phillips. Looking at the terms of reference in point 1, it talks about a summary of the person's qualifications being submitted. First of all, who would be drawing up those summaries?

Ms Phillips: This is the way we hope it will happen anyway. With an appointment that comes from the ministry, that is, a ministry prerogative appointment, we hope what they will do is to prepare for us a summary of the individual as well as sending us the résumé information, and then we can pass that summary on. I think you will have to determine as it goes on which summaries are adequate and which are not. From the Premier's prerogative, the secretariat will be providing a summary of the individual being put forward for consideration.

Mr McGuinty: Is there any effort being made to somehow standardize the information that is going to be contained in those summaries? You can understand how crucial that information will be to us, because we are making judgements on that basis. My concern would be to remove the subjective element. Is there any effort being made to standardize what is going to be contained in those summaries?

Ms Phillips: We are going to have a professional human resources component to the secretariat within the civil service. What we hope to be able to do is to in fact provide a summary of the requirements of that agency, board and commission along with the summary of the individual's qualifications and background. So we are hoping to have it standardized.

Mr McGuinty: Will we be made aware of any political party affiliation?

Ms Phillips: What we are asking the committee to take a look at is the qualifications of the individual for appointment. We did not envision a part of it asking, "Are you now or have you ever been," having that kind of qualification on those. So no, whether or not they are a member of the Conservative Party will not be recorded.

Mr Grandmaître: Just Conservatives.

Mr McLean: People now who want to apply for these positions, the applications are in libraries across the province, is that right?

Ms Phillips: No, the applications are not. They will be. We are in the process now of standardizing the application form. It was our decision that we would only frustrate people if we were to put the application forms in now, which we could do, because they are limited, and not have the directory for them to consult as to what to apply for. What we have been doing is simply telling people, "For the time being, send us your résumé."

Mr McLean: I guess a basic question that a lot of people maybe have on their minds is the fact that there could be an appointment coming to a police commission. The public in general will not know that there will be an appointment made. How then would people know to apply for one if there is not going to be one for three years? What would be the point of applying now for an appointment to the police commission? It would maybe create a lot of paperwork unnecessarily.

Ms Phillips: On the issue of police commissions in the communities, there is a fairly regular turnover in a number of the communities of police commission members. We are hoping that by annually having those books out which indicate expiration of incumbents, people will get an indication that there may be an opening coming up. However, within the Ministry of the Solicitor General and along with the association of police commissions, we are trying for those types of commissions that are in every community, like police commissions, etc, to develop a further outreach so that members of the community know that those police commissions are open to have people put themselves forward for them.

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Mr McLean: There is going to be a list. How often is that list going to go out? Is it going to go out monthly to each library and constituency office in the province?

Ms Phillips: There will be an annual directory produced. It is a major job. We will have worked four or five months to produce that one annual. We are trying to make it so that it is as accessible as possible. There are currently four sets of black binders that contain all that information. We are trying to put it in a standardized form. It will be annual, but the secretariat itself will have possibly a

1-800 number, where if people want more current information they can call to have information updated over the phone if they need specific information.

Ms Haslam: Part of my question has been asked, but I do want to say to Ms Phillips that I have been trying to do as much in my community, telling them this is coming. I want to say how pleased we are that this is going to be made available to the public through the public libraries. A lot of my constituents are very excited about it and are looking for it, so I commend you on a major job in getting that out.

I, too, had some questions on police commissions and how that information can get into the community other than by my saying, "Is there anyone else out there interested?" and how soon you see some of this information getting out there.

Ms Phillips: Because the area of police commissions is one of special interest, we are talking to the Solicitor General's ministry about it; in fact, it raised it with us directly. I cannot speak to the specifics other than the general ad we will be producing and the hope that MPPs, through their constituency offices, will clearly indicate that that is one agency in most communities which plays a crucial role which hopefully people will apply for. Because this is a change, I see it as a growing process, something we are going to be making amendments to and learning about as we go through this.

Mr McLean: I have a supplementary on one of my previous questions. The bottom line is that the ministry is going to make the appointments from the applications it receives and this committee is going to have the opportunity to review the appointments. Is that the process?

Ms Phillips: Yes.

Mr Bradley: The other avenue, quite obviously, as there may be some consideration to members' offices having certain information available, is the constituency newsletter members put out. That is certainly another way of advertising what method you are going to use at present, and no doubt you will put out information on precisely what you are going to do. Members do have that opportunity to let people know where to get information, at least. I think that is the key to what Ms Haslam is speaking about, getting that information out in the local community. I have found that one of the best ways to provide direct information is through the constituency newsletter. Members will have that chance, and if your office produces something that can be put out by any member, that would be very useful.

Mr McLean: Will the subcommittee or committee know the number of people who apply for a position?

Ms Phillips: The individuals who applied and were not successful?

Mr McLean: Yes.

Ms Phillips: No, that was not going to be information we envisioned handing on. If I can give you an example, we right now have an ad in most major newspapers for the vice-chair and chief executive officer of the Workers' Compensation Board. We have received a large number of applications from interested parties, most of them middle and upper management individuals. Our feeling is that it would not necessarily be fair to them as unsuccessful candidates to have them forward, that the consideration should be whether the successful candidate is credible and qualified for the position the government is putting that person forward for.

Mr McLean: That is the key to the whole thing. Nothing is really changing other than the fact that we now have a committee set up to look at the appointment that has been made to see whether they qualify or not. Nothing has really changed other than a great publicity stunt, letting on to people across the province that anybody can apply for whatever they want. But the appointment is made by the minister, and we have a committee now to look at it to see if his credentials are all right, period.

Ms Phillips: Was that by way of a question?

Mr McGuinty: With respect to the list that is going to be placed in public libraries, has there been advertising notifying the public that that is in fact happening?

Ms Phillips: We will notify the public prior to it happening. We are already getting phone calls about where the list is, how it is proceeding. When we have a better idea of exactly when it is going to be ready—right now we are using the beginning of April or May as a projected date. We hope to come in early on that so we can let people know exactly when they can expect it.

Mr McGuinty: Will there be any ongoing advertising to remind the public that this list is present in their local library?

Ms Phillips: Once a year we will be doing a general ad which will tell people.

Mr McGuinty: In connection with another matter, when we are advertising for positions to be filled, will there be a listing in the advertisement of qualifications that have to be met in order to fill that position?

Ms Phillips: We are doing a general advertisement for the agencies, boards and commissions. For specific positions which the ministry or the Premier's office chooses to advertise for, such as chairs, there is a description of the qualifications needed for that position.

Mr McGuinty: Who would draw up that list of qualifications?

Ms Phillips: In the case of the Workers' Compensation Board position, for example, the WCB itself gave us its description of what the requirements were. In the case of the Social Assistance Review Board, the ministry's civil service Human Resources Secretariat in conjunction with the Social Assistance Review Board drew up the qualifications needed for that chair's position, which are listed in the ad.

Mr Bradley: There are other order-in-council appointments made by cabinet. One has to wonder why they are made by cabinet. I wonder if you are reviewing all appointments to see if some have to be made by cabinet. Let me use a specific example. OPP constables, for instance, or something like that, as I recall had to be appointed by order in council. No one ever liked that. They automatically went

through. I do not know if there are any other examples of that, where it seemed that the cabinet was left with making those kinds of decisions and no one knew enough to challenge them or wanted to challenge them in that case. Are you reviewing those which perhaps should be done in a different way other than order in council?

Ms Phillips: We are reviewing them both ways. We are reviewing a number that are not done by order in council with a view to perhaps doing them by order in council, because they are critical positions. We are also reviewing things like coroners, fire chiefs, deputy chiefs, OPP officers, which are also orders in council and must go through cabinet and are really just housekeeping. We are trying to review that whole package.

The Chair: On the secretariat and what you see happening there, you mentioned earlier on that you have two civil servants operating there now.

Ms Phillips: That is right.

The Chair: And you mentioned that you foresee a human resources component being incorporated in the secretariat. We talked about over 5,000 OIC appointments. You may be able to trim that somewhat because of your review, but it is still going to be a significant challenge, especially in tough economic times. You are going to see more and more people expressing an interest in these kinds of appointments, I suspect. What kind of budget are you operating on now? What kind of budget do you foresee? I know you are sort of your feeling your way now, but how large an operation do you think you are going to end up with?

Ms Phillips: We are trying to finalize that now. We do not yet have a budget we see ourselves operating within. That is being developed. We see an increase in the number of support staff at the civil service level, because application forms will be coming in and there will be a processing aspect. We envision that we will need at least one more support staff person, possibly two. We will start with the smaller number and see how the workload goes and have to reassess that. We see the human resources component at one, but, as I said, we will have to determine what happens as we go through this, how interested the public really is in this process. Our initial indication is that it is very interested in the appointments, even the once-a-month meetings or twice-a-year meetings. Also, we will have to see what the requirements of this committee are that overlap in that secretariat. I am sorry I cannot give you are a more specific answer than that right now.

The Chair: Ms Phillips, Mr Dee, thank you very much for appearing before us this morning. We appreciate it.

I just want to make one comment. I suspect that when this committee does its work in the coming weeks and months it is going to evolve into a very—perhaps "very" is not the right word; I think there is going to be some show of partisanship in this committee. There is no doubt about that, so I think we may as well be prepared for that. As Chair, I am certainly going to permit some of the sorts of things we saw this morning, but I want to alert you all to the fact that I am not going to allow it get out of hand. I am going to do the best I can as Chairman to ensure that we conduct this in a reasonably polite way. I know I can be a pretty partisan guy myself on occasion, but in this role I am not supposed to do that and I will do my best to refrain. But I want to say that certainly it is part of the democratic process that we engage in that sort of debate on occasion. There is no doubt that we are going to see it occur in this committee. That is the nature of the game, I think, especially when we are looking at appointments. In any event, I simply wanted to put those comments on the record.

Is there anything else we should be discussing before we break for lunch?

Mr Wiseman: It has nothing to do with this. It has to do with the fact that I had blank pages on the back of my paper. I would like to see for conservation's sake and for the cost of photocopying that we use both sides.

The Chair: Any problems with that, Mr Clerk? Okay. Good suggestion.

Mr Grandmaître: Do we need to appoint somebody to do this?

The Chair: I think the clerk will assume those responsibilities. We will see you all back at 2 o'clock. Thank you very much.

The committee recessed at 1124.

AFTERNOON SITTING

The committee resumed at 1406.

PEAT MARWICK STEVENSON AND KELLOGG

The Chair: I want to welcome as witnesses representatives from Stevenson Kellogg, who have volunteered their services this afternoon to appear before the committee and offer their advice in respect to how we may approach our review of recommended appointees from the provincial government.

I welcome you here and thank you for appearing before the committee. I will ask all three of you, for purposes of the record, if you would identify yourselves and the roles you play within the firm.

Mr Parr: We appreciate the invitation to join you today in your first session as a standing committee. My name is James Parr, partner-in-charge of executive search for Peat Marwick Stevenson and Kellogg. On my left is Heather Connelly, on my right Kathy Dempster, senior consultants in our executive search and recruitment practice here in Toronto. First, by way of introduction, our firm is one of the largest management consulting firms in Canada. It is affiliated with the well-known Peat Marwick Thorne accounting practice. Kathy, Heather and I are three of the senior members of the executive search and recruitment practice of the firm as one component of its broad consulting services. Some 40% of our work in 1990 was

with the public and not-for-profit sector in our recruitment practices across Canada.

Because of many years of involvement in assisting public bodies in recruitment and selection at senior levels we have developed processes, approaches, strategies and have helped many public bodies in different disciplines in making often very politically sensitive public appointments and selections.

Our approach is one of not necessarily doing what we would term a full search to find candidates and take it all the way through to the ultimate selection, but to provide, in many cases, help and assistance to public bodies, boards and commissions in their own recruitment processes, because many such organizations begin their own recruiting by, as was discussed this morning, running an ad in local or provincial or national media and finding themselves perhaps besieged with résumés and not knowing what to do next or how to take it from there in an objective, selective way. So we have often made ourselves available to such organizations to assist them with that kind of objective selection process.

We appreciated sitting in this morning to hear some of the directions to you as a committee and your questions in return, and it helped us put things in a little better perspective, because it is new to us as well. I think we have a better appreciation for your role and appreciate too some of the concerns that you have, some of which were expressed this morning—"My gosh, 5,000 appointments this year. How are we going to handle this? What if we have a great list of people to review in one day and we are told that we have three hours maximum? How is that going to be handled? How do we do it justice and keep everyone happy and keep it politically clean?"—and all of these things which I know are of concern, and there are many other questions which may arise. We will have certainly ample time at the end of our presentation to receive and hopefully deal with some of those questions.

We recognize that you are representatives of a variety of constituencies around the province of Ontario. You are in the public eye. There are expectations of you and how you perform; it is life in a fish-bowl. That is important to recognize in any recruitment and selection process.

In terms of our agenda today, we would like to determine together what you hope to achieve as a committee. I think in partial answer to that, it would be obvious that an objective, unbiased selection process, which of course includes appropriate, structured interviewing in order to achieve that end—we will talk about how we have helped other public bodies in selection and use some examples that you could relate to.

I guess, generally speaking, we have worked for hospital boards, boards of education, community colleges and universities, crown corporations both provincially and federally, municipalities and regional governments and major associations that we would call not-for-profit, trade, charitable, health-related and so forth. All of those constituents are our clients each month, each year, and use our services in terms of helping them make the right selection.

We will raise a number of issues today which, we appreciate, will arise in the course of your selection and approval activities. We are not here to tell you what to do or how to do it so much as to raise issues, raise some points for further consideration but also to perhaps suggest some methods, approaches in effective selection, interviewing and decision-making.

You cannot interview in a vacuum, and we will talk about the fact that conducting a well-structured, objective interview is only one component, of course, of the overall selection process. Your committee has a mandate and we will focus on that mandate, but there are a lot of things that have to feed in to you before an interview can even commence.

The integrity of the selection process is really a critical issue because it is in the public eye, it is in the public domain, and must be conducted in a very objective and unbiased way.

Finally, we will talk about interview format and methods of evaluation, raising some possible suggestions for questions that would be appropriate in interviews at the senior level for appointments to the various boards, commissions and agencies in this province.

We will conclude with a question and answer period, as I described earlier, and have ample time to respond, or hopefully respond, to questions which may arise from what we will discuss today. If at any time during our discussion over the next hour you want to jump in with a question or an issue comes up or you want to challenge us in any way, please feel free to do that, if that meets with your approval, Mr Chairman.

We would be amenable within a very few days, if you so wish as a committee, to provide you with reprints of some of the notes and formats we will be discussing today so that you will not have to try to make copious notes as we talk. That is something we would normally do after such a session, if that is helpful.

I will turn the program over to Kathy Dempster at this point, if I may.

Ms Dempster: I think I can take an educated guess by saying that most of you around this table, if not all of you, are not unfamiliar with committees, the frustration of committees and the challenge of committees, and certainly not unfamiliar with each other, both from this morning's session as well as from some of the conversations that we heard taking place. You are not strangers.

What you are new to, what today is really the first for you, is to come together as the standing committee. Subsequently, there are a number of issues, factors which you are going to have to deal with, which you are going to have to get your arms around. Certainly it is a question of identifying what your key objective is. I think Jim has already said you are here to arrive at an equitable, fair, objective decision with regard to the appointments for the various agencies, boards, commissions and boards of directors of corporations. What you need to do is identify how you are going to work together, what process you are going to undertake in order to arrive at that conclusion.

As Jim stated earlier, 40% of our clients have been within the public sector; 100% of those have used a selection committee process in order to arrive at their hiring decision. In working with those bodies, we have developed

a formal selection process which we would like to walk you through this afternoon. During that time, of course, there are a number of issues that will come to light. The formal selection process is such that hopefully it will allow you to get your arms around it, as a group, collectively, keeping in mind at all times that your bottom line is, "Is the selected candidate qualified and able to do the job?"

With that, I would like to hand it over to Heather, who will indeed walk you through a process in one particular example.

Ms Connelly: I thought perhaps what I would do is use an example I heard this morning. You were talking about the police commission, and because we have done some work with the police commissions, we thought we would use that as an example.

One of the things we have found in working with public bodies is, "What is the job all about?" and we have taken that first, initial step of trying to determine the criteria. In trying to determine that criteria, we get a whole lot of questions like: What is the job? What is the organization? What is its mandate? What is its history? What have they done in the past? What do they want to do? What are their resources? Who are the people in the organization who contribute to that? How does the organization see this position as contributing to the overall objective of the organization? What are the time frames? What are the resources? When do you want this done by? How are you going to measure the performance and what rewards to you offer if you meet that success? We have found that if you ask a lot of those questions, then you begin to get some idea of the kind of candidate or the kind of individual you want to fulfil that role.

Then you say: "Who does that? Who finds out that information?" Well, hopefully it is people who are going to make the hiring decision. That is what we normally say to a public body. If it is a council, for example, or a police commission, we would say, "Who is going to make the hiring decision? Then you're the one who should help determine the criteria."

Now, we can appreciate in this instance, the way your process is set up, that that is very difficult, but I guess you would probably hope that the ministry where the appointment is going to be made would have made that determination of criteria.

Normally, we go out and we ask not only the people who are in that organization at a senior management level but also some of the board members. We would also go, in the case of a police commission, maybe to the municipal government and to the provincial government, because those are the relating bodies outside the organization. We would probably talk to some of the community groups, maybe the police association. Then we would collate all that material, give it back to the selection committee and say: "This is what all of these people said your organization has done, this is what they have said about your mandate. How do you see that with what is your idea of where the organization is going?"

Sometimes they have to evaluate what the material is saying, but it does lead them to say, "All right, what kind of person do we want to do that job?" We would then say: "Well, they have to have a certain amount of experience. They have to have perhaps a certain management style or working style. They have to have an interest. They have to be able to travel. They have to be able to make the time commitment necessary."

How do you get that information in order to put it together as criteria and how do you use it to evaluate? I guess if you were talking about that information, you would want to know what the criteria are from your point of view. You would want to know what their background of experience is, you would want to know what the selection process was that brought all this information to bear and you would probably want to know what the reputation is among other people, so you might have to do references.

I think in summary, the kinds of information you would want to have available would be the résumé, the job description, the job criteria and the reference material. For example, let's take the police commission. The things that influence the police commission are probably the Police Services Act, some of the new law around employment equity, some of the freedom of information. It would seem that the police commission is going to have to take all of those things into account when it does its job.

So if you are looking for a candidate as police commissioner, how is he going to address those issues in the community, how is he going to serve the community? I suppose you would want to know that the individual was in touch with the organization, that he kept up to date with the Legislature, that he has had experience in developing policy, that he knows how to monitor perhaps performance of a police force: Is the police force meeting the mandate of not only the government legislation but the commission as it determines the policy? What in their background qualifies them to do that job and how are you going to measure their success?

Having posed some of the questions around the criteria and talked about some of the information you probably require to assess what we have talked about, I turn it over to Kathy to talk about perhaps how you would want that kind of information presented to you and how we usually do.

1420

Ms Dempster: Obviously Heather has already drawn attention to what you are going to need and essentially again there are the job criteria, the résumé of the candidate, the interview, outcome, comments that were made, notes that were made, the information that you share collectively and the references. I think earlier this morning Carol Phillips did make reference to the fact that there was going to be not an attempt but certainly a dedicated effort to make sure that information that came to you was in a standardized format.

Certainly, we have found from our own experience that when you are working with a selection committee, where you do have a lot of different agendas around the table and you have a lot of different ideas as to where this person is coming from and what this job will probably entail, it is a question of whether you have sat down before you got all this information in front of you and agreed collectively.

Have you arrived at a consensus of what is important, what are we really looking for and, subsequently, can we take this information to arrive at making a recommendation that we feel is fair, just and equitable?

In terms of standardizing, understanding that the information comes to you by way of the subcommittee, the subcommittee receives it from the minister's office—I may translate that a little differently—it comes to the committee once an individual has been deemed to be appropriate for review. Is that right, Mr Chairman?

The Chair: Yes.

Ms Dempster: It would be very important if you did have it standardized, as I indicated earlier. It helps alleviate a lot of the bias, a lot of questions that in all fairness should not even be thought of in considering an individual for a particular position or responsibility. Normally when we are working with the public sector, we find that a standardized format helps them arrive at the decision.

It takes a little longer, there are a lot of gaps that people obviously try to fill in after they have gone through the interview and compared their notes, but it is one that I think when it comes to a conclusion, everyone sits around a table and says: "This was a decision made at a consensus. We are comfortable with this and the recommendation that we are putting forward has integrity."

Mr Parr: The issue of selection criteria cannot be overemphasized. From our experience, the poorest selection process comes out of not understanding what the job is or having appropriate background information on the potential candidate or the intelligence or commitment of the group that does conduct the interview. In fact, an often missing element or one that is put together in a hasty fashion or is in concept just not handled properly is one of making a translation between the job description, the knowledge you have of the organization, that is, the client organization where the position is open.

The résumé, background and qualifications of the potential appointee—that in itself is not enough because we find that the interview process and selection process then still becomes largely a subjective process. Work must be done and if it is upstream from this committee, if it is the work of the subcommittee, if it is the work of the particular agency, if it is the work of Carol Phillips and her group, these things should be determined beforehand but taking that information and coming up with a clearly well-defined list of selection criteria.

Let's have a look at what we would consider to be the ideal candidate profile. What must the candidate have to do the job? There is a list of musts, some basic qualifications and experience relevant to the job. Then there is a list of "Gee, it would be nice to have some of these qualifications and experience in order to make an individual who meets those criteria in list 2 a better candidate." Then there are certain—call it "softer elements" of any candidate that would be important: the ethics of the individual, the basic honesty of the individual, the track record, reputation and other factors.

But basically your mission, of course, is to determine if the individual is, in your best judgement, qualified and able to do the job, so those criteria are very important. Our recommendation is: Do not accept simply a dossier which includes résumé, job description and some information on the position that is open, ie, the agency itself, but ensure that appropriate criteria have been developed so that you can then base your interview and make some comparisons.

That leads us into talking a little bit about our selection committee process, recognizing that if you as a standing committee are faced with interviewing or reviewing six witnesses in three hours, you are not going to have an hour, an hour and 20 minutes, or a reasonable interview time in order to do a thorough review. Your challenge in that situation, of course, will be to conduct a review of that witness in perhaps 20 or 30 minutes and, boy, when you have that little time, that becomes quite a serious challenge and you must really know what you are doing in terms of structuring that interview.

The process that we use, and we typically have on average an hour interview with the particular committee and each candidate to be reviewed, starts with working with the committee to establish a series of questions in advance that would be asked of each and every candidate. This way it keeps the process fair, each candidate faces the same set of questions, and often it is the decision of the public body, the search committee, to have certain members of that committee ask specific questions, so there is even that kind of consistency to the interview process.

There is time for the witness to ask questions, make comments or elaborate further on questions once the set questions have been asked and responded to. In some cases, we have candidates arrive early for an interview and consider in private a couple of key questions and then make a presentation in response to those questions, which is a very objective process.

But what happens as a result when the candidate or witness leaves that room, invariably he feels that he has been fairly, professionally, equitably treated. He does not feel shortchanged, does not feel that, "Gee, I only got 15 minutes and I know the previous witness got half an hour," and begin to openly criticize the process that you have employed. From your point of view, as important or more important, you have a good basis of comparison at the end of your review period in order to do some objective evaluation and typically, working with the client body, we assist with that evaluation.

One of the helpful tools is in fact a score sheet that is the private property of each member of the committee but has down the left-hand column the various criteria that have been agreed to as being important candidate criteria, important to meet to be a viable candidate, and then on a basis of a one-to-ten or one-to-five score, each committee member's own private evaluation against that one criterion, and then the next criterion and the next criterion, how they would evaluate that candidate.

Then, after the review, you have something to go on, to discuss as a group. "I felt this witness had a better understanding in this area and was better qualified in that area," and you have not just notes to refer to, but a standardized form that has the criteria on that form and your own ranking on that form. So we assist our clients in providing

various tools like that to make the process more straightforward.

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Mr Wiseman: In these criteria, would you have subcriteria so that you have some kind of direction as to how you would grade the point? For example, if you said "comprehension of mathematical skills," would you have any subcriteria under that which would allow you to grade if it was, say, 1 to 10? How would you term that?

Mr Parr: Keep in mind that in a way it is a custom approach because you would not have the same criteria in looking at an appointment to this commission versus an appointment at senior level to that commission. So what you would do beforehand is ensure that you have criteria that relate to the qualifications needed to fulfil the specific position. Then if you need subgroupings, that can be done. You can put whatever criteria you feel are relevant on such a scoresheet, as long as everyone is working from the same level playing field.

Mr Wiseman: In terms of evaluating, it is like marking an essay question: You want to know how many points you are going to give for which pieces of information. If you just say, well, you are going to give 20 marks to the answer, how do you arrive at saying that this one gets 15 and that one gets 18 unless you have some subcriteria by which to look at?

Mr Parr: Yes. That can be developed. Frankly, recognizing that certain criteria should be weighted, that that should be done—I talked earlier about certain candidates having to have certain qualifications, but that it would be nice if they had others—there would be a weighting of your scoring against those criteria. But this becomes a very personal judgement which can then be used for your basis of discussion and evaluation after the review in order to reach a conclusion, because obviously you have limited time from the rules that are temporarily in place as a standing committee, limited time in order to make that recommendation.

The Chair: A couple more questioners at this point.

Mr Grandmaître: I find your presentation very interesting, but I am just wondering if you are addressing the right people. I think you should be addressing the secretariat, people who will be making recommendations to this committee, because we do not have a veto. The criteria, the must-list, finding the best-qualified person or persons, that is not our responsibility. It is up to the secretariat to ask these questions and to recommend these people to come before this committee and to permit us to ask them questions.

Even if we can argue with the secretariat that you should not have asked this question, that you should have asked this one instead, because of the limitation in time, the secretariat had maybe 45 minutes or maybe an hour with this candidate. We only have 10 or 15 or 20 minutes, so it is very difficult for us to argue with the recommendation of the secretariat.

Also, I want to underline that we do not have a veto. If we do not have a veto, why should we waste that person's time to come before us and to tell us, "I am the best-qualified person for that job or for that appointment"? So I find this is a fait accompli. I like the way you are approaching this. I have dealt with you people before, so I know how serious you are in your selections. But you should be addressing the secretariat and we should find out from the secretariat what qualities it will be looking for to fill that job or that appointment.

Mr Parr: What we are opening up, Mr Grandmaître, as we said earlier in the discussion, is a series of issues that have to be addressed, if not by your committee, by others, but recognizing that your mandate cannot be handled totally in a vacuum, that there has to be some feed-in of appropriate quality information as well as quantity in order for you to do your job. We recognize that you do not have a veto, but our understanding is that you do have a recommendation position of yea or nay, "We recommend or we do not recommend." How are you going to determine whether you recommend or not unless there is that review process with certain selected candidates?

Mr Grandmaître: What if we do not agree with the recommendation? What happens?

The Chair: I do not think Mr Parr is in a position to respond to that.

Ms Dempster: If I could take my professional hat off for a moment and put on your consumer hat, I would like to think that the people around this table have a vested interest to ensure the integrity of the process, that the recommendation that you may put forward may not be the recommendation that this person indeed be appointed to that role, but you have carried out your duties. You have executed them and you have done it in a very professional manner, having looked at all of the various issues that had to come up.

Ms Connelly: I think the other thing too is that when we talked about the determination of the criteria, what we were doing is trying to raise in your minds some of the things that you might want to address in your questions. If you want to make meaningful questions, if you want to find out as much as you can about that individual, you will be able to do that a lot more effectively if you can get that kind of information prior to your meeting. Also, the more of you that you can get on paper or a feeling for, the better you will use that 10 or 15 minutes that you have for those kinds of questions.

Mr Parr: What we are doing in effect now is kind of starting with an open end of a wide funnel and looking at broader issues surrounding your mandate and then working down to, "Okay, as a committee, you now have 20 minutes each to review six candidates." What sorts of questions should you be asking, recognizing that legally speaking you can probably ask any question you want, but is that desirable? What sorts of questions should be relevant, given that you have a short period of time in order to try to get some response and measure the individual against the criteria we are describing? Heather, perhaps you could talk a little bit about the interview questioning process.

The Chair: Before you do that, Mr Silipo did have a question on this subject, I gather.

Mr Silipo: Actually, Mr Chair, it is not that different from the issue that Mr Grandmaître was raising, although perhaps not in as negative a sense as he put it forth. It seems to me, as you were indicating, that as we take a look at the sort of scoring mechanism as one way to do this, I just wanted to be clear that what we were looking at there is obviously not a situation where we are looking at scoring people against each other, because we obviously are not in that situation. We are in a situation of, in effect, scoring, as you were indicating, against certain criteria, whatever those criteria might be that we presumably would develop ahead of time.

All of that presumably then is aimed at answering for the committee the question, "Is this particular individual qualified and able to do the job?" which is slightly different from saying, "Are there other people who could do the job equally well?" In fact our role is in the end not to answer that second question, but really sort of to say, "Is this person who is being recommended for this appointment qualified and able to do this particular job?"

Mr Parr: Quite correct.

Ms Connelly: I would think that, for example, if you had a citizen or one of the members of your own riding who felt that someone had been appointed to a position that he wanted, he would probably come to you and say, "Hey, why did that person get the job?" or "Why didn't I get it?" At least you would be able to answer that there was a process followed. You would feel comfortable in saying that the person is qualified to do the job, and that in the process perhaps you had paid attention to some of the issues that concern the integrity of the individual, such as, was the person treated with fairness and equity and were questions that are contradictory to human rights asked?

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I think there are a whole lot of issues around that because one could say, if you were going to argue the point, that this is not just an appointment, but really is an employment appointment and maybe there are some legal questions about what kinds of questions you can ask. Your constituents might ask you that. I think that is some of the context of the issues we might be raising.

Perhaps I will go on right now and talk a little bit about some of the issues you might want to consider from a legal point of view, which we have to pay attention to when we are working with public bodies. I have a list of them over here. It might be easier to show them.

For example, some of the questions around formal education: They can prejudice you against some minority groups that may not have the education but maybe have the experience. You have to be very careful in your applications and in your questioning about how you phrase the questions. We have always said that it is all right to ask a number of questions as long as you are relating them to their ability to do the job. In fact, whether someone had a heart attack last week may not affect the way he does a job in one instance, but if he is required to carry a lot of heavy boxes it could well affect his performance.

I think that if you always structure them around the criteria or the demands of the job, then there are a lot of questions you can ask, but these are some of the other things you probably have to consider: race, colour, religion, sex, national origin, height and weight. It has been shown through some of the questions that have been addressed around human rights, say, that height and weight is a negative against women, for example. Marital status, number of children, day care arrangements are all questions that are difficult to ask.

Some of those in some instances do affect the person's ability to do the job. You can structure the questions in that way, like, "Are there any situations or things in your everyday life that could affect your performance of the job?" and then allow the person to bring them up himself. There are ability to speak English, arrest and conviction records. Again those are really only appropriate if they impact on the person's ability to do the job. Military service, age, financial status and even weekend work have been shown to affect the way decisions are made.

I think all I am doing is trying to raise some of those issues for you to consider when you are asking questions.

The next thing that we want to talk about is, what kinds of questions in a short period of time are most likely to help you make your decision? Certainly we have found open-ended questions, of course, where you allow the person to provide the information, where you do not lead them to the answers, like yes and no answers.

We have suggested that maybe if you want to do that and you only have a short period of time, you might want to address this question, "What is your understanding of the position and the organization?" That kind of question immediately determines whether they know the job they are getting into, whether they know the organization, whether they know what is going to be done. Then if you said, "What challenges or issues will you have to deal with?" you will again know whether they know what the organization is about.Then once you talk about that kind of question, you can lead into the next one, which is the answer you want, "What in your experience equips you to meet the demands of that position?"

Some of the other qualities that come out are that if, for example, communication is a very important part of that job and they are going to be out presenting to the public, trying to get citizens' input, etc, you might want to know how they organize their thinking, how they present, how they question. In these open-ended questions, you do get that opportunity to see how the person communicates and how he addresses certain issues. "Why are you interested in that position?" That one of course leads to motivation, which again can be critical to the position, because you wonder if their interest is legitimate given the mandate of the job.

Then you want to know what, perhaps, they consider achievements if teamwork were a very important thing and you were to ask this question. We have had some very interesting answers in these kinds of questions, particularly if, for example, people skills are very important in the job and you ask someone what had been his major achievements and everything he brought up was technically based, was something he did on his own. Then no matter what he told you up there would not prove the point.

I think that what you have to do once you get your general questions asked is then to lead into particular questions that confirm what they have said, perhaps, in the opening. You might want to talk about how they did it, what it was, and you would get a sense of their organizational ability, their teamwork, if they say "I", if they say "we," those kinds of things.

This is another open-ended one that we found very successful in bringing it out, "What has been the toughest decision you have had to make to date and why?" Then, if you get at that one, you also see what they find tough, what is a stress, how that impacts on the way they make their decisions. You also find out why. So you find out a lot more information than if you just said to them, "How do you handle stress?" "Very well," they would say.

I think that what we are suggesting is that if you try and open up the questions from different angles, you will find out the information you need. You can also see from this list that they are not a lot of questions, but you can get a lot of information out of those questions in a very short period of time.

Also, there is this question, "What do you consider the keys to successfully working with others?" They may have some pat answers to that one, but then you can ask them to describe an experience to demonstrate the above. You can appreciate that in the time frame they have, their instinct is going to be to bring out one that they can think of immediately and you will be able to relate that to what they have said here.

This is another one that we found interesting, "If we were to talk to the people with whom you have worked"—because you are suggesting that probably if you were to do references, these are the people to whom you would talk—"how would they describe your work style or how would they describe you?" Then you get, for example, I suppose, if it were people skills again and you were to ask that person and every time they said, "Fair, logical, consistent, play by the book," and you have those kinds of things, you would begin to wonder whether or not in fact they really were people oriented. So you can probably tell from some of those questions.

This is another one that we found interesting, "What would you hope to achieve in the first six months?"

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Mr Grandmaître: A new election.

Ms Connelly: I can appreciate that.

In the first six months, sometimes you get someone who says to you, "Well, I'm going in and I'm going to look over the organization and I'm going to do this, this, this, this and this and this." Then you will have other people who will say: "I'm going to go and talk to all the people in the organization. I'm going to find out what they do." So you begin to get a feeling for how they really do tackle issues and how they are going to operate once they are in the organization.

Then this is another interesting question, "What could cause you to fail in meeting the job requirements?" Sometimes they will say, "Well, if the person to whom I report doesn't give me the authority, I feel I would fail in the job." Maybe that is something that the person to whom he or she reports cannot give. Maybe it is a consensus situation where they really have to sell their ideas and get the buy-in from everyone in order to get done what they want to.

I think you can probably see that some of those questions would elicit some of the information you want. Asking someone's political affiliation, I guess, would be the first one that you would want to know, but I guess from a human rights perspective, is that a question you really want to ask and be answerable to your own constituency? I do not know.

The Chair: That may be a good point to raise at this juncture, the questions of what this committee—perhaps the restrictions. I think the clerk may want to expand on this. Those restrictions, I think, are probably going to be essentially voluntary. I do not think that as a committee of this Legislature we are going to be faced with the kinds of constraints that others might be faced with. Certainly, as the committee process evolves, we may determine that there are certain types of questions that we think, as a committee, are inappropriate, but I do not think there are too many restrictions out there upon us right at this moment, if any.

Ms Connelly: Would you be answerable, though, to your own constituents, who would be concerned about the kinds of questions you might ask? Would you have it from just a moral—

The Chair: I assume you are responsible for everything you do or do not do as an elected official, so I suppose that is a determination made by the individual member.

Mr Parr: Obviously there is a big difference between the 20-minute interview and the one-hour interview.

Mr Stockwell: Forty minutes.

Mr Parr: That is right, there is a 40-minute big difference, Mr Stockwell.

What goes almost without saying is that in preparation for whatever time allotment you have per interview, your questions that you plan to ask should be tabled and should be the important questions to ask within the given time frame you have. Heather has pointed out a list that probably could be handled adequately in a one hour interview, but of course in 20 minutes there would not be time for all of those questions and appropriate response. So that is something again in terms of your preparation, to standardize a series of questions that would be appropriate for varying lengths of interviews. It could be a prioritization that has three or four key questions that you would ask, regardless of what interview time you have, and then extend the list of questions depending on the length of time you have at your disposal.

Ms Connelly: I suppose that in some of the information that you get back in determining the selection process, you might want to ask the candidate, "How were you selected?" and, "What happened?" if you wanted to know the integrity of the process, as well.

Mr Parr: One thing that we offer many public bodies, once we have had this kind of session in assisting them in striking their own format for interview and selection, is to offer a follow-up situation in which we could, on your invitation, for example, sit in and monitor the review sessions for the first while, or whatever time would make sense and then perhaps offer a critique or feedback. That is something you may consider as a committee.

I guess we would be open to general questioning at this time.

The Chair: I would like to make one comment. Our researcher made mention of the fact that he is also going to prepare a list of possible questions, and perhaps we will be doing that with each candidate who appears before us. Having a bank of questions certainly can be helpful. It can apply to virtually every candidate who appears before us. Having standardized questions in that sort of format I think would not be appropriate to the kind of role we are going to be playing.

Mr Parr: Yes.

The Chair: Also, I think it would only be a matter of time before each candidate who appeared before us was supplied prior to his appearance with that list of questions. That is a concern I have.

Mr McGuinty: Mr Parr, you indicated at the outset that you had dealt with a number of clients in the past. I am not sure if it was yourself or perhaps one of the other ladies. What was that number approximately? Was there a reference to 1,000?

Ms Dempster: We quoted a percentage. Last year, 1990, for example, we had approximately 40% of our client base within the public sector.

Mr McGuinty: In terms of numbers, how many employment selection committees have you dealt with?

Mr Parr: Over what time frame?

Mr McGuinty: The past couple of years, for instance.

Mr Parr: In the past couple of years, if I look at the total number of engagements, assignments we have been involved in, and 40% of those with selection committees, we are probably looking at between 80 and 100.

Mr McGuinty: Have you ever dealt with one such as this where our judgement will not necessarily be carried at the end of the day?

Mr Parr: Yes. I cannot think of a specific example. I will use your subcommittee as an example. Often we are dealing at subcommittee level where that subcommittee has been selected as a selection or search committee of a larger board or commission. We work with that committee to make the selection and its recommendation then goes to the full board, which has, of course, the veto power. But most often the full commission or board is not involved in the final interviewing. It is the smaller committee with which we are working that has that mandate. It is not uncommon that the selection committee makes its recommendation to the larger board, and that can be accepted or rejected.

Mr McGuinty: Is there any particular special advice you would have for us, given that our opinion may not necessarily determine the matter?

Mr Parr: I think it is a matter of just stating your case as concisely and clearly as you can as to why your recommendation may be a negative recommendation. I cannot think of any more specific way to respond to that question.

The process has come through a variety of steps, has reached you and you have said with regard to your post-review recommendations, after interviewing a potential appointee, "No, we do not agree that this is a good appointment." That should be backed up, obviously if everyone is pretty unanimous on the committee in making that statement, by why. You then can come back to those criteria that we describe and your evaluation of the candidate against those criteria to state why your recommendation is a negative recommendation. I think to just go forward and say, "Our review says nay to this appointee," and leave it at that leaves you then open to, "Why? We don't agree. We'll go ahead anyway," any number of things. But if you raise with the agency or ministry the reasons, then they hopefully will carefully consider that and perhaps go along with your recommendation.

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Mr McGuinty: If I could just take this a bit further. From the perspective of your profession, what is your opinion of the setup we have here, in that we have people appearing before us, we are more or less going through an appointment selection process, yet it may very well prove to be an academic exercise? What is your opinion of that?

Mr Parr: Why do you feel it would be an academic exercise? In other words, if your recommendation was rejected it would then be academic?

Mr McGuinty: For instance, we could decide here unanimously that we were not in favour of a particular appointment, yet that would not necessarily carry the day.

Ms Connelly: Is it not all parties who are being asked by the public to try to do something about the appointments and to try to look at the issue? Is it not really an all-party issue around these appointments?

The Chair: One of the comments that was made earlier with respect to the federal committee was that witnesses tended to decline the hypothetical questions. I think in this instance it would perhaps be appropriate. There is a tendency for politicians to be a little cynical, but I do not think we should be prejudging the process. I think we have to see what happens with this. My own guess would be that the government, certainly initially, in the exercise would be loath to reject a recommendation of this committee.

Ms Connelly: I would think so.

The Chair: What we may see happen on other occasions is a division within the committee, perhaps a 6-5 vote where it is carried by the government majority. On those occasions, there may be a legitimate concern on the part of the opposition members of the committee about how they get those views forward other than the fact that they have this committee opportunity. Our report is going

to be deemed as the report of the House, so I think there will be infrequent if any occasions on which we will have the opportunity to debate some of these decisions where we have a very severe split within the committee. But those are concerns we will be able to address when we make our report back to the House some months hence. To suggest that the government may turn its back on a unanimous recommendation of this committee I do not think is appropriate at this stage in the game.

Mr Parr: To answer Mr McGuinty's first question, I think you asked—correct me if I am wrong—how we felt about this new process in relation to your committee's involvement. Was that the first part of your question: What is our reaction to that?

Mr McGuinty: Generally, yes.

Mr Parr: I would say it is very favourable. As taxpayers, as your constituents, it gives the selection of key people in agencies and commissions more credibility in the eyes of the public. We are certainly in favour, recognizing that you have a job of work to do. It is not necessarily going to be an easy task. You will have crowded schedules and it will be up and down in terms of the level of involvement, but I think it is a very positive step.

Ms Connelly: Just the fact that you are there, too, does put pressure on the ministries to do a proper job, whether or not your recommendation is accepted. Just the fact that you are there and the fact that your constituents can then ask you exactly what went on. If they want to make it public that they have heard the committee turned down that person, that does put pressure on, from my viewpoint.

Mr Parr: Mr Runciman, you alluded to the scenario where you may come out with a very close vote, 6 to 5 or whatever, regarding a recommendation yea or nay. Our advice would be, although it may be difficult in the final analysis, given the time allotment you have, to discuss the appointments to the extent that you have maybe not a unanimous but a much more clear-cut decision or recommendation, rather than go forward with something that may be that close.

The Chair: I think that would be the hope of all of us, but the reality is that we are dealing with a partisan committee and different political agendas, and those kinds of disagreements are going to occur.

Any additional questions to ask? You made an offer earlier to sit in on the first few of our hearings. Was that an offer to do this on your own or were you looking for some sort of an assignment from the committee or should we discuss this after we go off the record?

Mr Parr: Perhaps that could be for off-the-record discussion. It occurred to us that there may be some follow-up required.

Mr Waters: You also made an offer to give us some written material. It would be useful for us.

The Chair: If you can provide the materials to the clerk, the clerk will see they are circulated to the members of the committee.

Ms Connelly: Is there a particular area you want more information on?

Mr Waters: I do not want to get caught in the trap that I see coming from the other side. As a member of the committee, I have had no instructions from the government to play partisan games here and I am somewhat distressed at some innuendoes. I want to see this new process work, and the only way it is going to work is if we come together and make it work. It is not going to work if we say: "I'm part of the opposition. I'm part of the House side." It is never going to work that way. I do not think that is the intent of this committee. Nobody has ever instructed me and I do not see it ever coming down the road.

The Chair: Thank you very much, again, for appearing before us. We appreciate your contribution to our deliberations.

Could we take a couple of minutes before we adjourn just to talk briefly about the agenda? We are having some problems with the schedule with respect to one of the health council groups scheduled to appear before us. We may have to make some changes. Also, with the last week on our schedule, there is some question now that at least one of the caucuses, I think the government caucus, may be holding a caucus retreat that week. I am not sure if the other parties have determined when they are going to have their caucus meetings prior to the House resuming in March. Maybe our clerk can review some of the matters and then we can discuss them briefly.

Clerk of the Committee: Starting with the last week, the week of 4 March, I had heard that the government caucus retreat would be falling on at least a day and a half of that week. I had heard at second hand that that is accurate.

Mr Silipo: My understanding is that it is going to happen some time that week; I have heard a couple of different dates. I presume tonight's caucus meeting will add some clarification to that. I thought there had been some discussion among the whips about that in terms of trying to see what kind of scheduling could be done to minimize the conflicts.

Clerk of the Committee: So by Thursday at the subcommittee meeting and then back at committee Thursday afternoon we should have a clearer idea of where we can rearrange things.

Mr Silipo: I hope so.

The Chair: Are you the whip for this committee?

Mr Silipo: So far, yes.

The Chair: I wonder if all three caucuses could follow up on that week to see if there is going to be any conflict.

Mr Grandmaître: The week of 4 March?

The Chair: Yes, 4 March. The other one, Doug?

1510

Clerk of the Committee: Going through the schedule in order: Week 2 is fine. The Ontario Municipal Board and the Liquor Licence Board of Ontario are coming in.

Ms Haslam: Would you repeat that?

Clerk of the Committee: Week 2, the week of 21 January, the schedule is fine as is. In week 3, I foresee problems for the following reasons: Carol Phillips this morning indicated that certificates of intended appointees would not be coming down until after next week's cabinet committee meeting. We had been expecting they would be coming down, at least some, after this week's meeting. With this new information, it appears there will not be enough time to meet the requirements of deadlines under the new provisional rules, for the subcommittee to meet to select, and then for a minimum of seven days to exist between the subcommittee's selection and the committee actually beginning reviews. So week 3 will most likely not begin, as I foresee it, the process of reviewing intended appointees.

Instead, I suggest that the committee schedule client groups served by the OMB and the LLBO, which were suggested for week 4, and a number of other witnesses following up on the introduction to the appointments review process, perhaps the expert from the United States congressional research service if we can get him that week. Robert Macaulay today offered to appear if the committee was interested in hearing from him.

Ms Haslam: Then you are saying week 3 becomes week 4 and week 4 becomes week 3?

Clerk of the Committee: Week 4 may become what was planned for week 3, yes.

In the fifth week, where we had expected that both district health councils could be called in, the committee has received a letter from the Hamilton-Wentworth District Health Council indicating that it would prefer to appear after 15 February. The only week after 15 February is the week of 4 March, which could have some problems, so we will have to see how that part works out.

The Chair: They cannot appear at any point during that week?

Clerk of the Committee: They said that because of prior commitments of the council, they would find it most convenient to appear after 18 February. I can seek clarification as to what "previous commitments" means.

The Chair: How does the committee feel? Do you think we should pursue this further with respect to Hamilton-Wentworth? There is a request of the government. It looks like they may be a lost cause is what the clerk is suggesting, because we may not be able to review their operations until some point when the House is sitting.

Mr Frankford: I think the feeling was that there was nothing in particular relating to Hamilton but just as an example of a big-city district health council. I do not know whether any others would be available.

Mr Wiseman: We could ask other health councils: Durham, Halton.

The Chair: We are looking for a large urban area so it would have to be one of the large district health councils. I would have to ask the clerk if it is feasible to try and get another one at this juncture.

Clerk of the Committee: I do not know. We have asked them to get materials to us by 1 February and they said they were happy to do that. Their only problem was with the timing of appearance. I will check with them further.

The Chair: I wonder if we cannot assign that time to appointment review if the government is starting to generate more appointments. Hopefully they will be, and perhaps we can assign that time to that. We will talk to Carol Phillips and see.

The committee adjourned at 1517.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 16 January 1991

The committee met at 1004 in committee room 1.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review precess.

The Chair: I guess we have enough warm bodies. I will call the meeting to order. As you know, we do not have anything scheduled for this afternoon. It was suggested yesterday that we devote the morning to a review of the Macaulay report, which was a review of Ontario's regulatory agencies. Our researcher is going to take us through this. Hopefully, to assist us in the future we are going to have legal counsel who served with Mr Macaulay appearing before us, and we are also at some point going to have Mr Macaulay himself appearing before the committee. David, do you want to take it from here?

Mr Pond: I brought along two memos I prepared for the committee last year. The first one on the Macaulay report itself the members may have seen already, but I brought along another copy. I brought the second one for reasons which I hope will be made clear in a moment.

This is the Macaulay report. I believe all members were issued a copy. Mr Macaulay is right now a practising administrative law lawyer. He has had a long career in Ontario public affairs. He was a minister in the Frost and Robarts governments in the 1950s and 1960s. Then he served as chair of the Ontario Energy Board, a very distinguished chair. Then he went into private practice and has written the standard text on administrative law and procedure, which came out in the 1980s. Then he was commissioned by Mr Peterson in 1988 to exhaustively review the operation of agencies, boards and commissions in Ontario.

I think I will start by focusing on what Mr Macaulay had to say about the order-in-council appointments and the review of order-in-council appointments, because that is the subject the committee is directing its mind to in its current hearings. Then, if the committee desires, I can go on to talk about the rest of the Macaulay report. Not all of the Macaulay report, I should add, is relevant to this committee. He has a large section on the Ombudsman, for example, which is the concern of another committee of the Legislature.

In any case, Macaulay on appointments: It is safe to say, like the new provisional standing order, that he is in favour—or was in favour, I suppose—of a more open appointments process. I think he would approve of Ms Phillips's comments about the plans of the appointment secretariat to have a human resources component in the screening of applicants for positions. I do not think he has any problem with that.

However, beyond that generalization he does take a bit different approach to how order-in-council appointments to agencies, boards and commissions should be made and how they should be reviewed. All you have to do is skim his report and it becomes evident that because of his background Mr Macaulay has an unrivalled knowledge of how agencies in Ontario actually work. When he was a minister he drafted many of the statutes which to this day govern some of the major agencies in Ontario.

One of the points he comes back to over and over again in his report is that it is dangerous to make generalizations about how agencies in Ontario operate. I should add at this point that he does focus on the major regulatory agencies, as the chairman said at the outset. Every agency, according to Mr Macaulay, is a world unto itself to a large extent. He argues that it is really only the people on the inside of the agency—the chair, the board members—who can give an accurate view of how that agency operates. He argues that if we are going to have an improved, new appointments procedure, the plurality of agencies in Ontario and how they operate has to be taken into consideration.

I should add—I do not mention it in the memo and it is important to understand this—that there is a long debate in Canada, as elsewhere in the English-speaking world, about the role of the administrative law and administrative agencies. It goes back to the creation of the welfare state in the 1930s and the 1940s. It is a bit of a generalization, but it is what he adopts, so I will too.

There are basically two points of view about administrative agencies. The first view, which tends to be taken by lawyers, and certainly was taken by lawyers in the profession in the 1930s, 1940s and 1950s, is that agencies are potentially a threat to individual rights and therefore have to be carefully controlled by the courts under judicial review; and therefore, whenever possible, agencies, when they hold hearings or adjudicate matters which affect individual rights, should operate like a court. The court-like model is favoured by many lawyers.

The opposing view within the administrative law and policy world is that agencies are unique. They are not courts, they are not the Legislature, they are not the cabinet. They were created for specific functions. They combine elements of the other three branches of government, but they are unique. It is possible for agencies to protect individual rights and still get the job done. Procedures which agencies should follow should be tailored to the specific agency in question, because every agency is different, given its mandate and the policy area in which it operates. These are the two polar points in administrative law and practice.

I might add that in this debate in the English-speaking world, Canada has had some very distinguished contributors, people like Bora Laskin, for example, who is world famous for his views on administrative law and policy.

Macaulay very definitely takes the second point of view. He is pro agency. He thinks agencies are necessary, inevitable in modern society. He thinks they should be allowed to do their job. He does not think agencies should be turned into miniature courts, and most of his recommendations are made with that in mind.

Turning specifically to the business of appointments, as I mentioned, he feels that because every agency is different to a certain extent, the appointments procedure has to take that into consideration. I give you some examples. If an agency is dealing with a very highly technical area of policy, and its hearings, if it holds hearings, are going to be dominated by the so-called experts, as opposed to an agency which has a more general mandate and before whom members of the public are likely to appear, Macaulay argues that the appointments procedure for these types of agencies is going to have to be different. If you are looking for appointees who have a very specialized expertise, a very technical background, you are going to want a different appointments procedure, in contrast to an agency where you are going to be looking for people who are more representative of the community.

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He points out, and he is in a position to say this, that it is difficult to get good people for a lot of reasons. You can have the best appointments procedure in the world, the most publicized appointments procedure in the world; it does not necessarily follow you are going to get the best people. So he argues that you have to tailor the appointments procedure to the agency you are trying to attract people to.

Another example he points out which affects the way people apply for jobs is whether the position on the agency is part-time or full-time. Obviously, a lot of people in our society who might be desirable agency members cannot afford to take a part-time position. They have a full-time job; they cannot add the extra workload. Conversely, many people who would be interested in a full-time position, in their own minds at least, cannot leave their job without losing their career, so to speak. As Ms Phillips pointed out yesterday, most—not all, but most—appointments now to agencies in Ontario are for three years with one reappointment. Macaulay points out that many professionals cannot afford, in their own lives, to take three years out of their career to serve on an agency when there is no guarantee they will get a reappointment and when, in any case, it is not a career prospect for them. So Macaulay argues again that whether the appointment is part-time or full-time should affect the appointments procedure used by the secretariat in order to pull in people who can take on a part-time responsibility or to pull in people who are in a position to offer their services full-time.

He points out that many agencies hold hearings and that, as I mentioned earlier, some hearings are highly complex matters—for example, before the Ontario Energy Board—while other hearings are not. We had an agency in here last year, the Ontario Custody Review Board. It dealt with the problems young offenders have in Ontario. Its board was made up of community representatives who had some insight into the problems of young people. The point Macaulay was making was that, given these different types of hearings an agency would hold, once again you would want to tailor the appointments procedure to pull in different people. They would be more comfortable, given their background, with a highly specialized hearing or more comfortable, as the case may be, with a more publicly oriented hearing.

He argued that generalizations about what would or would not be a good appointments procedure failed to take into consideration the different nature of different agencies in Ontario. He felt that if an appointments procedure was set up which did not take this into account, you are not likely to get the best people.

I can give you other examples. One that I think should be mentioned, which he points out—this is his language, not mine. It is kind of a motherhood thing now that the appointments procedure to agencies should be as open and democratic as possible. However, he points out that for many agencies which deal with specialized subject matter, the statutes that govern them require that specific representatives from specific interest groups be appointed to that agency. The example he uses is of an agricultural agency where a farmer had to be appointed to the board. He argues that in that circumstance, and there are a lot of agencies like that, having an "open" appointments process really missed the point entirely, because it was natural for the government of the day, when it was searching for an appointment to that kind of agency, to go to the specific community involved, in this case the agricultural community. He said this is something that has to be taken into consideration when you are putting together an appointments procedure or when you are evaluating the government's appointments procedure, which is what this committee does.

Another matter he was very big on is that he felt it is often overlooked that when a new appointment is made to a board the existing members of that board have to work with the new person. As the focus in appointments procedures tends to be on the new person, not on how the existing people are going to work with the new person, he recommends that before a candidate is finally chosen by cabinet for an appointment he or she is sent to talk to the chair of the agency to which that person will be going, for two reasons: first, so the candidate will find out what is actually involved in sitting on that agency.

Again, Macaulay argues that because every agency is different, candidates, no matter how qualified from the outside world, if that is a good phrase, may not always really understand what is involved with sitting on that agency in terms of the issues, the workload, the personalities. This is something Macaulay emphasizes, that one has to take into consideration the personalities on the board. They have to mesh or the agency is not going to work. So he felt that if the appointee goes off to see the chair, the chair would be able to acclimatize the candidate as to the real nature of the job, which may change the candidate's mind, but also it would enable the chair to get a feel for the new person. Macaulay recommends that before an appointment is made the cabinet or perhaps the appointments secretariat should ensure that the chair's

opinion of that candidate is heard by the cabinet. He does not necessarily have to have a veto, he is not in favour of a veto power for the existing chair of an agency, but he does feel that the chair of an agency has the right to have his or her opinion expressed to cabinet before the appointment is made.

Turning to his recommendations, he recommends that this standard rule, or what is becoming a standard rule in Ontario, that appointments should be for a three-year duration, should be changed. He feels there are some agencies which operate in a highly specialized area of policy where it would be desirable that if you do have an outstanding board member they should be allowed to stay on. I think he feels it is a waste to have these people's positions terminated after three years or three years plus one reappointment if they are doing a very good job and are willing to stay.

The second reason he makes that recommendation is that he feels many qualified people in the community are discouraged from applying now because, as I mentioned earlier, they cannot look upon an appointment as a career option because of the fact that it is going to be a short-term appointment. He recommends that it may very well be that the government could attract highly qualified professionals to agencies if the applicants could see this as a career choice, much as when a lawyer gets appointed to the courts he or she is there for ever, until they retire.

As I mentioned earlier, he recommends that it be a requirement that the chair of the agency to which the appointee is going gets the chance to meet the appointee. That should be a condition of the appointment. He argues that this body he would like to see in Ontario, called the council of administrative agencies—this is why I brought along the second memo—should have a role in the appointments procedure. Very briefly, Australia, Britain and the United States have advisory bodies—they are usually known as administrative councils or, in the United States, administrative conferences—which are made up of lay people and experts in the field of administrative law and advise the Legislature and the cabinet about the whole operation of agencies, including the training of staff, the training of new agency board members and advising the cabinets or, in the case of the United States, the President on how the appointments procedure could be cleaned up. He recommends that Ontario adopt such a body. They do work well in other jurisdictions, there is no doubt about that.

This administrative council, as he calls it, would work very closely with this committee on an ongoing review of the appointments procedure, an ongoing review of staff and board member training. He is very big on training. He feels that people appointed to agencies, while they may have all the qualifications in the world when they are appointed, do not necessarily have all the skills they are going to need to be a good agency member. An example he gives is that there should be training on how to hold a hearing. A lot of people, he feels, who get appointed to agencies may be quite expert but they do not necessarily know how to handle deputations from the public, how to chair a meeting, how to interact with members of the public. He feels that many agency board members are not taught how to write a decision; agencies that hold hearings have to release decisions. He feels this a talent, a skill, and it is all too often taken for granted by cabinet when it makes appointments. He feels there should be training in this area.

He feels that agency board members, once they are appointed, tend to get set in their ways in terms of making decisions. He thinks there should be ongoing training in new administrative law decision-making procedures as they crop up. One of his favourite examples, and Martin Campbell appeared before the standing committee on administration of justice on this last year, is the whole area of alternative dispute resolution mechanisms. This is not new, but an increasingly popular method of solving disputes in modern society, which is very big in some administrative agencies in the United States and is creeping up into Canada. He feels this is a new technique which could be of valid use here, and agency board members who are, as it were, entrenched in their positions should be made aware of these new techniques.

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To finish off this section, for the purposes of this committee there are two aspects of the report that would be valuable to think about, and also in terms of Mr Campbell's testimony and Mr Macaulay's testimony, if he does appear before you. One is his feelings about, as I mentioned, the individual nature of agencies and how the appointments procedure and how this committee reviews prospective appointments to agencies must take into consideration the specific identity of each agency, that every agency is different. There are very few safe generalizations to be made about desirable appointees.

I might add, on that point, that if Mr Macaulay does show up for a hearing, members might want to ask him questions specifically about our two agencies that we are going to be reviewing, the Ontario Municipal Board and the Liquor Licence Board of Ontario, because he is intimately familiar with the former in his practice and he has written about both in this report. There are very few agencies in Ontario he does not have an opinion about.

The second aspect of this section of his report which I think is valuable is his recommendations and I have outlined some of them. I think members might want to consider them when they are drafting the report on proposed revisions to the draft standing order, as the committee is required to do before May.

I think I will stop there. That is what he has to say about appointments, which is what we are dealing with now. I am happy to go on and talk about the rest of his report if you would like, or take questions.

Mr McLean: I have a question with regard to what you said, that it works well in other jurisdictions, Mr Macaulay said. What other jurisdictions were you referring to?

Mr Pond: Washington, DC; Great Britain, where the council is known as a council on tribunals; and at the federal level in Australia. I should add that this proposed council—this is Macaulay's view—would not be a new

layer of bureaucracy; it would be a part-time advisory body. Perhaps the chair would be full-time. It varies from jurisdiction to jurisdiction. It would work very closely with this committee or its equivalent in the other jurisdictions. It would not be an agency or an extension of the executive. It would be separate and independent and work directly with the Legislature.

Mr McLean: Under the direction of the government?

Mr Pond: No, under the direction of the chair of the council who, once he or she is appointed, is there with secure tenure.

Mr Silipo: If I have understood what Mr Macaulay is indicating, would that council then in effect do some of the kinds of reviews that otherwise might fall to this committee? Is part of the reason for the existence of these bodies just the stark reality that a committee like this cannot really review properly—

Mr Pond: I think you would see—and this is how it works elsewhere—that council would prepare or provide a lot of the raw material this committee would use. I do not think there is any doubt. He would see it as a support to the Legislature, to this legislative committee.

Martin Campbell will say this. He has said it before. He feels that in an ideal world—again, we are talking about an ideal world—committees would have a lot more time and energy and resources to examine agencies. The ideal everybody has is congressional committees in the United States which, as we all know, have dozens and dozens of staff members and spend months doing these kinds of reviews.

Probably in a parliamentary system that is not possible. The way to get around that is to have this outside body preparing some of the raw material for use by a committee.

I will give you an example. The draft standing order under which this committee operates in terms of appointments does not allow for independent witnesses. The committee cannot summon independent witnesses to express their views on particular government appointees.

One of the things this council could do would be to provide that independent expert advice, again, about how a particular agency operates and about prospective appointees.

Mr Waters: At one point you said something about the fact that good board members should be allowed to stay beyond their normal—

Mr Pond: For certain agencies.

Mr Waters: Who would determine who is a good board member? What might be a good board member to one person is not necessarily that to the committee.

Mr Pond: Fair enough. In fact, now that you mention it, Mr Macaulay had some very shrewd remarks, and again I am speaking from personal experience. In fact, you can ask him this. He would probably tell you right out whom he has in mind. He talks about how, with the best will in the world, people who look really good when they are first appointed can turn into terrible agency members for a lot of reasons, some of which are beyond their control. They have marital problems or financial problems that can affect their performance.

He is a believer in the Westminster system, whereby the cabinet makes the final decision. I do not think there is any doubt about that. He does feel, though—and I mentioned this earlier—that when appointments are made or remade, as it were, the chairs of agencies are not often consulted sufficiently. He argues that quite often these appointments are made by the cabinet without giving the opportunity to the existing board members to have their say about whether this person would be a good appointee, whether this particular mix of skills and talent would be a good mix for the agency.

Mr Bradley: What you will find as well, he interjects, is that people will get in these positions and then blackmail the government for more money and say, "Well, I am going to leave and go somewhere else if you do not give me more money or some other perks." These things actually do happen on a number of occasions.

The Chair: It happens in the private sector too.

Mr Bradley: Yes, the private sector is the same as the public sector; you are faced with that all the time, although in a recessionary period they tend to be a little more reasonable than they are in non-recessionary periods when the private sector is bidding for their services.

Mr Waters: Yes, but this statement that was made, that Mr Macaulay said that certain members should be allowed to stay on beyond their full term and the one after, basically for life, who determines who is that good a board member? That is the problem.

Mr Pond: That is the problem, but as I mentioned, in the final analysis I do not think he would say that decision has to remain with cabinet. He does not address this specifically, because this came out in 1989 before the draft order for this committee was written, but I think he would tell you that he does not believe that this committee should have a veto power over appointees, that in the final analysis the decision has to stay with cabinet because it is responsible for the operation of the executive branch of government.

I think Mr Bradley's point, you could put that to Mr Macaulay if he does appear. He is quite a frank fellow. As I say, he is one of the few people around who are in a position, and who have had firsthand experience of the administrative world in Ontario, but who are no longer within the government, that they can say what they think, essentially.

Mr McLean: What time is he coming this morning?

The Chair: He is not coming this morning. We are still trying to arrange a date with him.

Mr Silipo: Yes. I assume, first of all, that this suggestion or this recommendation that he made about setting up this council in fact has not really been discussed at all by our predecessor committee, or has it?

Mr Pond: No.

Mr Silipo: So presumably it is something that we may want to get into at some point and take a look at.

The Chair: I am not sure what the previous government or former executive council members are aware of, whether there was any discussion of this report or not. I guess our previous committee was considering getting into a review of the Macaulay report and tabling a report in the House in respect to that, but nothing has happened. This is indeed a significant document and certainly someone should be taking a look at the recommendations, but whether or not we are going to have the time to do it is another thing, with our mandate being broadened now. It is perhaps a difficult chore to find adequate time to do it.

Mr Silipo: There are two other areas where I wanted to both make some comments and really ask a question. I think Mr Pond said that in terms of the sort of two approaches or two views to the function of administrative tribunals, that Mr Macaulay came down sort of clearly on the one side of less—not less procedure, that would not be correct—but sort of less awkward procedure, if I understood what you said.

Does he talk at all, though, about how you sort of balance that need, on the one hand to have as simple a process as possible in any of these tribunals or commissions and, on the other hand, to make sure that there are adequate safeguards for individual rights? Where is the balancing line as he sees it between those two interests?

Mr Pond: That is the big question. He is a critic of the Statutory Powers Procedure Act. That was a statute enacted by the Legislature in 1971, I believe, initially in the wake of the McRuer royal commission in the 1960s. Judge McRuer was appointed, I believe, by the Robarts government in the 1960s. It was a precursor to this. Judge McRuer was definitely of the first model, a very distinguished judge. He felt agencies had to be fettered. They were a threat to individual rights and in all fairness, in his day there was very little legislative attention paid to the operation of agencies and he probably had a good point.

Out of his recommendations came a number of statutes. The Statutory Powers Procedure Act dictates the minimum floor of procedures all agencies in Ontario have to follow when they are making decisions.

He argues that—again, this follows from his general approach—having this standard uniform model for all agencies is a mistake and that procedures for protecting individual rights should be tailored to the specific agency. Now the question is, who does the tailoring? Again, this would be one of the things the council, this proposed council would look at, tailoring procedures to particular agencies. He feels that if there were a more extensive training program for agency board members, and I mentioned this already—

Again, in the final analysis the quality of an agency's decisions is influenced or perhaps determined by the quality of the people making the decisions. He feels if there was a more extensive training program, an ongoing training program, as there now is for judges, for example, in Canada, for agency board members, this bogyman of a threat to individual rights, as he puts it, would be diminished because you would have board members who were continually being sensitized to the rights of citizens before them and new human rights issues which may not have been perceived as human rights issues when they were first appointed.

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I think the two-part answer is that this would be something the council of the administrative agencies would look at and it would be something that would be dealt with by a more extensive training program for new and existing agency board members.

To get back to our specific mandate, I think he would argue that this should be one of the conditions of appointment, that the new board member would go through this training process quite extensively.

As I mentioned, for the federal judiciary, and I believe also for the provincial judiciary, this is now mandatory, these ongoing training programs to sensitize judges to the changing realities of society. There is nothing novel about this, this is the sort of thing which other jurisdictions are continually experimenting with.

Mr Silipo: That was actually my other question on the earlier point also, whether any of the other provinces have in fact set up anything like that.

Mr Pond: There is a Quebec version of this and it has gone much farther than Ontario has in terms of training and providing proper resources to administrative tribunals and sensitizing tribunal members to the changing cultural reality, if you like, to use a cliché. He comments on the "Ouellette Report" in this report. Unfortunately—I checked—there is no English version of it. It is quite an extensive report, much like this one is. Unfortunately, there is only a French version. It has not been translated.

The United States has gone a long way. The Administrative Conference of the United States, which is the equivalent to the proposed council, a federal body in Washington, is a very sophisticated operation and has had a great deal of success, improving the quality of decision-making by agencies and liaising, if that is the word, with Congress in the oversight function.

Mr Silipo: The other area of the Macaulay report that I certainly found fairly interesting was the whole series of suggestions around how you could look at other ways of reviewing groups of agencies. Are you going to talk about that a little bit?

Mr Pond: By this committee?

Mr Silipo: Yes, in terms of looking at issues or particular interests and grouping a number of agencies and asking and doing a review on that basis as opposed to reviewing all aspects of one particular agency's work. It seems to me that that is an area that I would like to see us take a closer look at. It may be another way to balance the way in which we can do our work more effectively.

Mr Pond: I think Mr Campbell—the clerk can correct me if I am wrong—this is the sort of thing he may be talking about. He certainly did the last time he was here.

Macaulay argues that, as you just said, it is more efficient for this committee, given its limited time—there are 580 agencies—instead of taking three or six and trying to send a signal to all the other ones which were not reviewed, reviewing just a small number, taking one aspect

of the job of agencies that many agencies have to do looking at that one aspect. Now, the two examples he uses are licensing.

Many agencies in Ontario are involved either in issuing licences or hearing appeals of licences which have been issued by other bodies. The Commercial Registration Appeal Tribunal is a classic example. One of the things he suggests is that, for example, this committee could look at licensing, how agencies handle that business or how agencies handle the review or the appeals of licensing decisions made by other bodies.

The environment. Many agencies in Ontario in an increasing number are given responsibilities for reviewing decisions which have something to do with the environment: environmental impact, land use planning with environmental impact and so on. It is an increasing preoccupation necessarily of the government.

He argues that—again, it gets back to his point about the individual nature of agencies—the problem is that these type of agencies and the assignment of this kind of function to existing agencies tends to grow topsy-turvy. This year if the Legislature passes a statute which requires the Ontario Municipal Board to hear a class of decisions which have an environmental impact, next year the Legislature passes a law requiring joint boards to be created out of other agencies to hear environmental matters and so on. One of his examples is that the committee could look at how agencies in Ontario handle environmental issues per se with a view to rationalizing or improving their operations. He has very specific recommendations about that, incidentally.

Public utilities—again, that function could be looked at. The example Mr Campbell used when he was here before was individual rights. All agencies to one degree or another affect individual rights. How could that be focused on specifically across the board? There are any number of examples.

Alternative dispute resolution mechanisms. This is something Mr Campbell is a bit of an expert on, another example.

One of the reasons why Macaulay belongs to the school he does is that he argues, when agencies become judicialized, when they become more and more court-like, partially because of judicial decisions—that is something I have not mentioned; quite often judicial decisions will require agencies to become more and more court-like in order to survive the appeal process—he argues that, as agencies become more court-like, as it were, they become more inaccessible to ordinary people. You have to get a lawyer to appear before them. That costs money.

Mr Bradley: That is exactly what is happening.

Mr Pond: It becomes more complicated and therefore more intimidating. Again, this is an aspect of most agencies that the committee could look at as opposed to looking at specific agencies. This is a problem the OMB has, for example, which we are hearing from next week. They may not perceive that to be a problem, but it is a problem.

Then there is intervenor funding as another example. That is an increasingly popular idea. However, in Ontario right now only a limited number of agencies are accessible through the means of intervenor funding.

Mr Grandmaître: It should be extended.

Mr Pond: That would be a notion or concept which would apply to a lot of agencies the committee could look at as opposed to looking at a particular agency.

Mr Bradley: That observation can be confirmed by looking at virtually every agency, now, of government, which those who have been around for years tell me is a significant change. I had responsibility for the Ontario Environmental Assessment Board, for instance. The number of people who now show up at the Environmental Assessment Board as concerned citizens is virtually zero. They must now come with lawyers and experts to make decisions. There are many who will argue there are going to be better decisions as a result of that, but it is exactly what Mr Pond has said about the fact that the average person now feels helpless going before one of these, either the Ontario Municipal Board, but more so, probably, the Environmental Assessment Board because without the battery of lawyers and experts people feel their arguments will not be accepted.

The second, of course, is the concern about judicial review at all times, that once a decision is made, will it go to court, will the court overturn it, which is yet another story. I must confess a great concern about the power of the courts increasing. A lot of people think that is a good idea but essentially Pierre Trudeau's comments about MPs and when they start to get 10 feet from Parliament Hill can apply to a lot of legislators these days, that in fact the power of individually elected legislators is diminishing; the power of the courts and the individual agencies, boards and commissions is in fact increasing. Again, there are people who think that is a great idea. I do not happen to be one of those people, because I think elected people should be making those decisions.

I guess part of that goes back to the constitutional agreement, the Charter of Rights being established and so on, but what members who are sitting on the other side in the committee will discover if they make their way into the so-called executive council—I do not know why we call that the cabinet—is that so many of their decisions, of their government's decisions, are going to be influenced by, (a) court decisions, (b) decisions of agencies, boards and commissions and (c) anticipated decisions of agencies, boards and commissions and anticipated decisions of courts so that, in other words, to beat the court to a ruling so it is only going to cost them $200 million instead of $400 million. They will take a halfway measure and buy off the people who are about to be successful in their charter challenge if their Attorney General suggests that.

So this is going to be indeed interesting work, to see if it is advisable to reverse this trend in the agencies or if it is not advisable, but I can certainly assure you that average citizens, if they once felt they had access to these, today do not feel they have access to them.

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Mr Kwinter: The other problem, just to follow up on that, is the structure of the agencies. Mr Pond just mentioned

two of them, the Liquor Licence Board of Ontario and CRAT, the Commercial Registration Appeal Tribunal. What happens is that usually people who are appointed to these agencies are generally appointed from the general population. There is no secret that when you become a minister, when you become the government, you are inundated by people who feel that somehow or other they want to make a contribution to the process and would welcome an appointment. Those of us who have been ministers know that this is one of the most common sort of representations you have made to you by people who are your supporters, or are perceived to be your supporters.

They get appointed, for whatever reason. Unfortunately, they may be good people in their own right, but as has been mentioned, they do not have the background as these become more and more sophisticated. For example, you will get somebody who has had his licence revoked as a real estate broker or as a mortgage broker who feels that that particular revocation was unfair. He engages a lawyer, appears before CRAT, and the people who are sitting on this board may not have the competence to really deal with the legalities of it. If you fill the board up with people who are that competent, then you tilt it the other way and you get people saying: "It isn't representative of the general population. I should be there."

It is the same thing with the liquor licence board. When I was the Minister of Consumer and Commercial Relations, the two boards that seemed to be the most popular, in the way that people wanted to have appointments to them, were the liquor licence board and the Ontario Film Review Board. For whatever reason, there was a perception that these two boards were great boards to be on.

What happens—there was no special expertise required—is that people got appointed, but there are problems. Just to talk about those two, there is exactly that problem, that someone is charged with an offence under the Liquor Licence Act, comes before the board—it is a licensing problem—brings a lawyer and these people who are good and well-meaning but do not have the expertise make a decision. It impacts negatively or positively on the particular person who appears.

We have a very interesting situation developing right now with the film review board. I used to say the only qualification that you have is that you be able to stay awake to watch the films. That was really it, because it is really a board that is made up of members of the public who decide what is the level of acceptance of films by the general public. What happens is that the longer you sit, the more sensitized you get to the films and what you might have thought was horrible the first day is pretty mild the seventh month. Not only that, you have a situation where because of this desensitization that board is making decisions now where the courts are finding that the films are obscene even though the film review board has passed them. That is something that is going to come up and we as legislators are going to have to deal with it.

You have that problem and I think what we have to do—I have to apologize because I am not really on this committee; I am just substituting. The problem that has to be addressed is twofold: One, what is the role of the agency, board or commission? I do not know whether it is the mandate of this particular committee to look at that and decide whether they should be modified, changed or abolished. Two, how do you appoint people to it?

If I could just give you a personal experience, I have had the distinction of being appointed to a commission. I was appointed by the federal government as a member of the Toronto Harbour Commission. When I was appointed, it was a five-man commission made up of three city representatives, a federal representative and a representative of the board of trade made by the federal government.

There was no question that when I was appointed I was perceived by my fellow commissioners as being the government man on that board. Whenever a question of government policy came up I was looked to and they would say, "What do you think the government thinks about this?" I had not the faintest idea. I had nothing to do with the government. I just happened to be appointed. But the perception was that because I was appointed by the federal government, I was its man, I had the ear of the minister, I knew exactly what was going on and I was there to make sure that this board, this actual commission, toed the party line.

As it turned out, I very quickly became the chairman of that commission and after three years—

Mr Grandmaître: Because of your connections.

Mr Kwinter: No.

Mr Silipo: Because you are the government man.

Mr Kwinter: The interesting thing about it is that after three years, when I would normally have come up for reappointment, I guess I happened to have been a little ahead of my time and I objected to what Harbourfront was doing to the waterfront, which was a government proposal, and as a result I was summarily removed as a member of that commission.

So not only was I not the government's man, but the government saw fit to take me off the commission because I was opposing what Harbourfront was doing. That was 11 years ago, and now they are just coming to terms and deciding that what Harbourfront was doing was not right. That is the problem you have.

You have a problem when you appoint people. Again, I am not trying to be political. You appoint people to the SkyDome board. You appoint Bob White and Bruce Kidd. They are immediately perceived as being representatives of the government, people who have direct access to the government, direct access to the Premier, and are there to do the government's will. The other members of that board see them in that light. It does not matter what they say. You cannot change that. That is the light in which they are seen.

I am not saying that is necessarily bad or that is necessarily good. I am just commenting that this is the way it works. So what you have to decide is, is this something the way it should be, and that in fact yes, members of the boards, agencies and commissions should reflect the government's position because that is why we put them there—if that is the case, that is fine—or no, they should not do that, they should be independent. I do not say that you penalize your friends, but that the people who are

appointed—it could be that they happen to support your particular point of view as a government—are appointed because of their competence and their ability to add something to that board.

To me, that of course is the whole basis on which this has to be addressed, in that context. How do you do that? How do you set up some kind of a system where you can evaluate that? Again, as I say, you do not penalize somebody because he happens to support one particular political party over another, but all things being equal, is this person able to function? I think that is the problem because that is one of the major issues that people—when I say "people," members of government—have to deal with. how do you staff this incredible number of boards, agencies and commissions? I do not know what the numbers are, but there are thousands.

Usually, unless they are really high profile, they are just meaningless names that have been recommended by some guy who happens to be the parliamentary assistant to the minister. It is his campaign manager or it is some guy who was his sign chairman, and he says, "I've got to show this guy that I appreciate him and put him in there."

That is one of the problems you have. I do not know whether you can change it because that is the system and it really takes a fundamental change in the system.

Ms Haslam: Was that not part of the comments yesterday, though, from the witnesses, that we were to look at whether the qualifications and the résumé of the people before this committee were adequate for them to handle the job? That is really what we want to look at—are they adequate resumes, are they of adequate experience to handle the job?—not what political party—yes if they are members of a political party—but are they capable of handling the job we are asking them to do. I think that was a very valid point that was brought up by the witnesses yesterday. That is really what you are looking at and that is what your questions have to show.

1050

The Chair: The only weakness in that, I suppose, is the fact that the amount of time available for us to review an appointee is quite limited. I guess we can only put forward a ballpark guess at this stage that maybe we will be able to look at perhaps 50 or 60 appointees a year, not an awful lot of appointees when you are looking at over 5,000 appointments in the province to ABCs.

From an opposition point of view, I would suspect that the opposition parties would want to be primarily dealing with rather high-profile appointments for a variety of reasons, and I am sure there will be a mix there as well, but perhaps focusing on the more prominent figures and roles that are available in the provincial government.

I guess we are just simply going to have to go through this and over the next period of time determine how effective this is going to be. I guess we are all hoping that indeed it is going to be a change. Having the experience of someone like Mr Kwinter and Mr Bradley is very helpful for all of us, I know.

Mr Wiseman: My question to Mr Pond is, does Macaulay say anything about the 5,000—we talked about this yesterday—appointees, roughly, and they range all the way from harbourmaster to whatever, to the chairmen of boards, does he say anything at all about who should be reviewed and at which point it would be prudent not to spend a lot of time at it? What does he comment about that?

Mr Pond: He says that this committee or whatever title it has should do this and and nothing else, that the committee that reviews order-in-council appointments should do that and nothing else. It should not try to combine that with the other functions this committee has had in the past. It should do that and nothing else.

I think also he would expect this proposed council on administrative agencies to perhaps indicate to the committee or even make recommendations about which appointees or which agencies to which there will be appointees—that is probably a better way of putting it—it would be desirable to expose to sunlight and which ones would not be.

There is this insurmountable problem of numbers. The other answer is that I think the argument is that ideally this process works well. It sends a message to the cabinet—this is certainly how it has worked, more or less, with the United States Senate, that it sends a message to the cabinet—regardless of what party is in power, that you had better not make any silly appointments because you are going to get caught. That does tend to happen.

In America, for example, presidents who do make appointments which are highly controversial tend to be presidents who otherwise ignore Congress. The classic example is Richard Nixon—I hope nobody here is a big fan of Richard Nixon—who tried to appoint to the US Supreme Court two chaps in the late 1960s. These were lawyers who wanted to be judges. One had a criminal record. The other one was a blatant racist. He was stopped because of the power of the US Senate to "advise and consent," the famous words in the US Constitution about appointees.

It sends a message to the cabinet about future appointees who may not come before the committee but whom the committee could choose at some future date.

Mr Wiseman: These examples from the United States raise some interesting points. For example, Kennedy in the United States has a personal staff of well over 120 people working for him. He has people on that staff who are probably more expert in any given field than he is. There are other examples where senators have come for committee hearings and had their staff person sitting right there whispering the questions in their ear as they went along. In some cases, the expertise of these staff people has just completely overshadowed the member himself. They have taken control of the committee hearings and been able to pursue lines of questioning that the senator or the member himself did not have any expertise in.

I do not have a staff even anywhere close to that size and neither does anybody else here. How could we even possibly move to that kind of a system without expanding the bureaucracy an enormous amount and adding huge amounts of cost?

Mr Pond: First of all, it is probably an insurmountable problem in a Westminster parliamentary system. The US is very different. It is built right into the US Constitution that senators are independent power centres. They are barons. The president is the king and the senators are the barons. The king cannot do anything without talking to the barons first. That is not how the parliamentary system works and it never will work that way.

But I think his solution—the method they have adopted in Britain and Australia, which are parliamentary systems as well—is that this is something you could give to this council on administrative agencies, this independent advisory group. This would be in part its responsibility, to assist members in making these evaluations. It is more cost effective and it does not disturb the status or the position of members in the system. It is a way of circumventing this problem, which they do not have in the United States because of the separation of powers.

Yes, you are right. There is inevitably this imbalance of information between members and the executive. There is no doubt about that.

Mr Bradley: This gets back indirectly to some of the questions Mr Wiseman has had and some of the comments of Mr Macaulay in his report, the fact that this committee does not have the right to review reappointments, only to review appointments. That is what I understood from yesterday. I was told we did not have the right to review reappointments.

There is an opportunity if you are reviewing reappointments to determine whether the person is in fact doing a reasonable job or not. Presumably this committee would not be interested in reviewing a reappointment of someone who appears to be doing a good job and there is a general consensus, but if someone were doing a job that a lot of people in the public felt was a bad job in a position, we should be in that position to review it. I think Macaulay points to that.

The other situation that exists as well is, the members of a new government coming in, I would think, would want the power to review the reappointment of people who a previous government has appointed. In some cases, you are seeing people being reappointed who were appointed by a Conservative government, subsequently reappointed by a Liberal government, subsequently being reappointed by an NDP government. It may well be that members of the committee from the government party might be interested in seeing whether it is advisable to have those people continue. Then as we go down the line the committee would be interested in the reappointments that this government makes of the people it has selected for the first time.

I really think some of these people get in a position and they are very hard to dislodge. They make friends in the right places, often with client groups. I have watched people from a previous government being reappointed by a Liberal government where I shook my head at the fact that they could be reappointed, but they always had the group they deal with saying, "Oh, he is a good guy" or "She is a good woman for this position." Somehow it would intimidate the cabinet into reappointing somebody and the cabinet would hold its collective nose and reappoint the person, either because there was going to be public embarrassment, the client groups were going to be angry or it looks good politically to do it. This committee, which I am told is non-partisan, would be able to approach that in an entirely different light.

Mr Wiseman: You would know that more than anybody else I think.

Mr Bradley: Being non-partisan myself, I know we could approach it in that way. But I really think those reappointments are going to be important and, as I say, as important for new members of the governing party as they are for members of the opposition party. In fact, it may be at long last a chance for some of us now sitting in the opposition, let me put this diplomatically, to review those people without the intimidating factors there. I think that is as much as I should say on that.

The Chair: David, did you want to spend some time with any other aspects of the report?

Mr Pond: As it affects the committee right now, I do not think there is anything I can really add that would be of immediate use to the members. If they like, the committee could look at what I have said today and perhaps some of the remarks the members have made in terms of possible recommendations in terms of reviewing the provisional standing order. I could put that on paper so that the members will have something in front of them when they interview Mr Macaulay, if he does show up.

1100

Mr Silipo: The only hesitation is, I am sure that all of us are going to, at the end of the process, come up with a number of things we will probably want to recommend be changed in the process, but it might be a bit premature to start getting too far along those lines as that until we have actually gone at least some way through the process. I think Mr Pond's material to us is just for us to have and maybe just think about and sift through as we go through the process. I think that is fine, but I think I would be a bit remiss if we were to start to get into those issues around what changes we might recommend to the process without our having even gone through it.

Mr Frankford: Could I ask some more general questions about the creation of new agencies or the abolition or amalgamation of existing ones? Is this something which happens all the time, or is the number that exists right now cast in stone, or what would one anticipate? Presumably if new ones come along, that might raise some interesting things, since one would be reviewing, presumably, a complete slate of appointments.

Mr Pond: The creation and, I do not know the right word, destruction or demise of agencies is governed by the Management Board of Cabinet Guidelines and Directives, which are very specific about how the cabinet can, I should not say recommend to the Legislature, but introduce the creation of a new agency. Nowadays it is a very stringent process.

As to the demise of agencies, one way is through the sunset provisions. I think I have submitted a memo to this committee on that last year. There is a sunset provision in

the Guidelines and our witnesses from the Management Board of Cabinet talked about that, for periodically reviewing advisory and most operational agencies as to whether they are still doing a good job. It is safe to say that agencies do not die on the vine very often. They usually just fade away. There are many boards and agencies which do not meet very often, but officially they may still exist on paper; there is no doubt about that. Maybe some of the former government members might have something to add to that.

Mr Kwinter: What happens is, there are agencies out there that have outlived their usefulness, only because the activity that they have been set up for has changed so dramatically, but there is always the feeling out there, I assume, that somewhere along the line something may come up that has to be referred to that agency. As far as the creation of new agencies is concerned, that is really something that is in the hands of the government and, again, circumstance dictates that. I would think that given the interest in the environment, things of that kind, there is a possibility that there will be new agencies set up of a kind, and as different things happen they may give cause and need for an agency. That is a government decision and once that decision is made, then they have to be manned and womaned and then I assume it is this committee's role to deal with it.

Mr Frankford: One thing which I think will come up is, if we are going to look at district health councils, that is something where there is not uniform coverage of the province. One might well take note that there are some areas without a district health council.

Mr Grandmaître: Let's assume that we are dealing with 5,000 agencies, boards and commissions. In the last 10 years, how many of these ABCs have been reviewed?

Mr Pond: By this committee?

Mr Grandmaître: Yes.

Mr Pond: We can find that out really quickly by just checking the appendix of the 17th report.

Mr Grandmaître: What is your wild guess—40%, 50%, 60%?

Mr Pond: Let Mr McLean do that. It is three to six per year, is it not, more or less?

Mr McLean: It could be up to 10 if you do six in the spring and six in the fall or the summer. So it is less than 10 a year.

Mr Grandmaître: That is my point, less than 10 a year, and it is being recommended that these ABCs should be reviewed periodically.

The Chair: Every four years.

Mr Grandmaître: Every four years. At the rate we are going now, this committee will be sitting 25 years from now. We have to find a better way. I know that they are responsible to provide us with a report every year. I think we have to be better equipped—if not this committee, another committee—to be on top of these reviews and eliminate, possibly, some agencies or boards.

I think that is the reason why these agencies become non-functional, if you want to use that term, after 5, 6 or 10 years, because their mandates have changed. We have no way to change that mandate, so they continue to do the same old things they should not be doing in 1990. Maybe it applied, let us say, the golden rule in 1980. We have to find a better mechanism to be on top of these reviews.

I do not have the magic solution, but I think that is one of the reasons why these agencies, boards or commissions have lost respect in the eyes of the public; you know, just like the Ontario Municipal Board. I will be very pleased to tackle the OMB because I have been fighting with the OMB for 20 years. You know, some people on the OMB, and I am not being specific, are just like the Senate, or just like fish after three days—they stink.

I think we have to find a better way to be on top of these reviews and maybe we should ask Mr Macaulay what he thinks about our record as far as reviewing is concerned.

The Chair: I agree. I think the concern is where this committee is going to find the time now. We are simply perhaps as a committee going to have to make the decision that we want to allocate a block of time to deal with this whole question of how ABCs should be reviewed in the future.

The clerk points out to me that under the standing orders, the last revision, there was a change made under which the various policy committees have the ability to review ABCs that fall within their areas of concern, but that has not been done. Something that the committee could be looking at is sort of assigning or requesting other committees to take a look at a variety of ABCs that fall within their areas of concern. That is another possible option available, but it is a pretty big question and something that we are going to have to devote some time to at some point in the not-too-distant future.

Before we close off the meeting, I will pose this to the committee. The clerk would like to review, primarily for the new members, the way in which we deal with expenses on the committee and how you submit for expenses and so on. We can do this off the record; it may make members a little more comfortable in terms of getting into some of the nitty-gritty.

Mr McLean: I noticed on our schedule about the financial budget. Are we dealing with that today? Is it not on today's agenda?

The Chair: No.

Mr McLean: Oh, that is Wednesday the 19th. Okay.

The Chair: If there is no objection, I am going to allow Hansard to close off and we will conduct the remainder of the meeting without the presence of Hansard.

The committee continued in camera at 1110.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 17 January 1991

The committee met at 1006 in committee room 1.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

MARTIN H CAMPBELL

The Chair: The first witness this morning is Martin Campbell, who, as your agenda indicates, served as staff lawyer with the Macaulay review of the Ontario regulatory agencies. Mr Campbell has been kind enough to appear before us this morning to share some of his experiences with respect to the Macaulay experience, plus some observations on what we are now embarking upon with respect to a review of order-in-council appointments. Welcome, Mr Campbell, and thank you for appearing before us. You have some opening remarks?

Mr Campbell: Yes I do, Mr Chairman, thank you. I would like to add a brief word about my own background. I am a lawyer and I am in private practice now. I am practising in the areas of administrative law and health law. I have my master's degree in public law from Osgoode Hall Law School. Prior to going into private practice I worked for the Ministry of the Attorney General. I was seconded to the Ministry of Health, and in the course of my seven years there I appeared before many tribunals.

Towards the end of my stint with the government I was seconded to Management Board of Cabinet. In that capacity I was assigned to R. W. Macaulay and assisted him in the drafting and some of the research on his report. My own view is that the report is of sufficient importance that it is worth considering. It may well have a significant impact on the administrative law of the province over the next few years. It seems to me that the operation of a committee of this sort is well served if you look at some of the major recommendations and insights set out in that report.

I thought I might start with a brief word about the approach this committee is taking on the issue of the terms of reference for the review of appointments. I think it is essentially the correct approach.

Last year I appeared before the standing committee on general government. I think Mr McLean was involved in that. We had as our topic the alternative dispute resolution in administrative law. As some of you know, alternative dispute resolution is a way to reduce cost and delay. In the course of that, I met Norman Sterling, who, in addition to his service on the standing committee on general government, was Chair of the standing committee on government agencies. He asked me to comment on the extent of the work this committee does, because if you consider that there are approximately 600 agencies for this committee to look at it is a staggering workload. He asked me for my thoughts on the ways in which the time of the committee could be more usefully used. In the course of my discussions with him, we discussed the prospect of moving away from the notion of studying a dozen or so committees in the course of a session and looking at generic issues which would be of advantage to all the agencies as a whole.

The appointments process is a topic of interest to every single agency. It is more than that: it is a topic of interest not only to the agencies but of vital importance to the proper working of agencies. An agency is no better than the sum of its members. If you start there, you are really making a significant impact on the performance of agencies. But more than their actual day-to-day performance, the whole appointments process has to do with the credibility of agency decisions in the public mind. If the public has a sense that the appointments process is open, designed to get the best possible candidates and fit the candidate to the task at hand, then credibility, enforceability and performance will inevitably be enhanced. So it seems to me you have the right approach in focusing on appointments and focusing on appointments in such a way that it covers the full range of agencies.

I thought I would divide my more detailed remarks into two parts. The first part will be a comment on the actual terms of reference you have before you. As I glanced at them earlier, I was somewhat taken aback with the scope of work before you, because it seems to me you will be swamped with applicants and materials. After I address some of the problems and some of the positive aspects of this which I can see, I thought I might focus a little on the second portion of your mandate, which is the discussion on how best to perform the task of reviewing the appointment of persons to agencies. I think it is somewhat premature to get into a detailed discussion of that, because you are going to be learning a lot in the next six months. It might be useful, though, to have some background principles which might give you some guidance on that task. I thought those would be the two areas I would attempt to address.

I want to turn now to the immediate task before you, the terms of reference. First, I would like to commend whoever drafted these terms of reference, because it is very clear. As you know from your experience, there is a difference in drafting between the wordsmithing side of and the policy side of. The wordsmith who drafted this has indeed done a fine job. It sets out a very clear approach and mandate and direction to the committee.

The problem, as usual, with material that is extremely good in form arises when you look at the substance. The first difficulty I glean from this appears in the first paragraph. It seems to me that you are faced with a massive volume of work. If you look at the approximately 600 agencies, with membership ranging from an average of,

say, 10 persons per agency, you are looking at something like 6,000 positions. I do not know if you have the numbers in greater detail from Management Board, but let's assume that as a ballpark figure. If the appointments are for three years and there are renewals for a further three years, you are looking at the review of possibly 2,000 applications in one year or 1,000 in six months. You may well be faced with an enormous volume of work, and it just struck me right off the top that some thought will have to be given to the extent to which you are going to be looking at this broad range of paperwork.

A second difficulty which is not perhaps apparent from the actual wording is the difficulty in defining precisely what qualifications a particular applicant needs. There are approximately 600 agencies. They are broadly categorized as regulatory, advisory or operational. The qualifications and specialization required varies enormously. If you are to assess a person's qualifications, you also have to assess the committee, agency, board or corporation to which the person is going to be appointed. This will take some staff work or at least reliance on the certificate of the minister that this person is indeed initially qualified for the task at hand. There is a fair amount of insight required in assessing precisely what an agency does.

Third, you are going to have the task, in one form or another, of screening applicants, even if it is a cursory review of the paperwork. There may well be the potential for embarrassment if an applicant slips something by you; they may have a degree from a university that does not exist. You all know the danger of embarking on that sort of exercise.

There are two or three other points that strike me which have not been set out in this material. There is the extent to which the candidates are going to be informed about this process. Will they be told what to expect? Do you in fact know what to expect in this? Will the chair of the agency to which someone is to be appointed be involved in this in any sense? It is critical to get the views of the chair of the agency, it seems to me, particularly if you are looking at a full-time position where people may be working long hours, periods of stress, where discussion back and forth on sensitive policy issues and so on is the norm. The chair of the agency is also in the best position to describe to a candidate precisely what goes on in that particular agency. If I were a candidate, I would like to have a conversation with the chair; we are looking at three to six years' activity.

Another point right off the top is the form of public notice. It seems to me that the underlying purpose of the terms of reference is to open the process. It struck me that the tabling of the certificate may not be enough. You may wish to have a broader public notice of the names of candidates. It seems to me that this is a critical component of the whole process.

The second paragraph also creates, I think, some difficulties which may emerge in the next several months: the criteria upon which your selection is going to be made. You will inevitably have to cut back on the number of persons reviewed. You may wish to develop criteria based on full-time jobs, part-time jobs. Are we dealing with a significant major board or are we dealing with a board that meets infrequently? Are we going to focus on regulatory boards, operational boards, advisory boards? After all, the consequences of a bad appointment in an advisory board can be dealt with within the government itself; the consequences of a poor appointment on a regulatory board affects the public interest in a greater way. You will perhaps wish to canvass the suitability of individual candidates from several perspectives: their own credentials, but whether they represent a constituency which the board or the agency is designed to deal with and whether in fact the full range of candidates represents the full range of race, language, gender and so on across the province. There may be a variety of criteria you will have to develop in deciding who is going to be looked at.

I do not intend to comment on paragraphs 3, 4, 5, 6 and 7. It seems to me that sets out a very sensible approach.

I do have a comment on paragraph 8. I am not sure that the words "no recommendation" are wise, because I think there is a possibility that this could be perceived in the public mind as "not recommended." It seems to me that this is not quite what you want to accomplish, in any event. The real decision is that you do not wish to interview a candidate, so a more appropriate response would be something like, "No comment; let the minister decide," or "Acceptable; we do not intend to interview." Wording like that could be perhaps a little more clear.

I do not think I can add anything to paragraph 9.

Paragraph 10: There are a couple of points here which I think may cause some difficulties, but if you are aware of them it may help you to ease the possibility of confusion. We presume, of course, that the candidate will know and have access to the material which is before the committee, so the candidate will know what you know. Second, although you say there will be no witnesses other than the intended appointee, you may wish to have some sort of role for the chair of the agency. Third, what about a written complaint you might get about a candidate? That is a very sensitive issue. If you have a letter from one of your constituents who says, "I know this candidate and he is a terrible person," and so on and so forth, should that letter be before the candidate so that some comment or response can be given?

Will the materials and reports and the comments of the candidate be on the public record? I expect they would be. If that is the case, suppose the applicant is indeed appointed to a board? You may find in the next month a lawyer for a litigant before that board going on the record saying, "I think this particular candidate has a conflict of interest," or a bias or something of that sort on the basis of the remarks made during the hearings.

Last, there seems to be little interview process in an informal way, so that it is difficult to screen a candidate in other than this sort of forum. This is not exactly the best forum for dealing with what might be sensitive professional or other issues. There are some of those difficulties which I think will have to be solved.

In paragraph 12, I mention again perhaps getting the views of the chair of the agency or the views of the public through written statements.

I have no comments on 13, 14.

With respect to paragraph 15, the words "no recommendation," again, you might want to look at the wording there.

With respect to paragraph 16, you must understand, of course, that it is indeed the minister who makes the final decision. This is perfectly appropriate, given the nature of agencies, boards and commissions. They are in effect emanations of the government in one form or other, so it is appropriate that the minister of the day make the particular determination.

In our administrative law, the minister of the crown is responsible for the actions of his or her department, and if an appointment is a poor one, the minister is responsible for the consequences of that. If this committee or any committee participates in the decision-making process, there may be the dilution of the concept of ministerial responsibility. The minister can turn to the questioner in the House and say: "Don't look at me. The individual candidate was vetted thoroughly by the standing committee on government agencies and it found no difficulty." You may have a dilution of that concept.

These are some of the problems which I see as I look at these materials. Just to recap this first part, I think the volume may well be extensive. You might want to query the way and the extent to which the ministry will do initial screening and verify that the credentials in fact are accurate. You may be able to ask the ministry or the minister making the appointment to give you a good sketch of the agency involved. It might be useful to develop some informal guidelines which can be given to a candidate so he will have an idea of what is involved, clarify for him what materials he will get, the sorts of questions which might be put.

In addition, the issue of extending the notice to the general public I think would have a greater effect than tabling; in addition to tabling, there might be some room for public notices. I think it would be advisable to try to obtain the views of the chair of the agency involved and provide some forum for the views of the public to be expressed. Last, your reporting certificates or reporting letters and so on should perhaps avoid the words "no recommendation" to avoid misunderstandings.

These are matters which I think can be anticipated looking at the terms of reference as they stand right now. Others may well emerge. The issues which I have raised may not be as serious as we think.

Before I go on to the second portion of my talk, I thought I might ask if there are questions at this stage. Mr Chair, I am in your hands on this, whether it would be useful at this point.

1020

The Chair: Are there are any questions at this stage on Mr Campbell's testimony?

Mr McLean: I have a question. You said we may want to let the minister make the final decision. The minister has already made the decision on who he is appointing. It is before the committee to decide whether his credentials qualify. That is really all the committee does. What comments do you have with regard to the final decision? The minister has already made it.

Mr Campbell: I do not necessarily agree that the minister has necessarily made it. It is an intention to appoint. It does not necessarily mean the final decision has been made right at square one. That interpretation does not really flow from the words "intends to appoint" a person. I think there may be a political problem if this committee examines the credentials of a candidate and determines that in its view the candidate is not qualified. The ball then goes squarely back to the minister to make a decision, it appears to me, and it becomes a political problem as to whether the minister wants to proceed in the face of a negative committee recommendation.

Mr McLean: We may be getting a different story from you from what we got from Ms Phillips, I believe.

Mr Campbell: The wording seems to be, "The minister of the crown shall lay on the table a certificate stating that the Lieutenant Governor in Council or the Premier, as the case may be, intends to appoint a person to an agency..." so I would think it is not a final decision necessarily. There is an intention to appoint.

The recommendation in paragraph 16 on recommendation of an appointment mentions "any decision of the committee...respecting the appointment." It seems to me that if you take this on its face there is some room for a final decision only after the committee has made its recommendation. That is my reading of the material. If it goes beyond that, I do not know that I can properly answer.

Mr Grandmaître: Maybe I should ask David or you, Mr Chairman: Does that mean we will receive a list of five or six people and this committee will have an option to recommend to the minister, or will we receive one curriculum vitae with a minister's recommendation?

The Chair: That is my understanding. The subcommittee will receive a list of potential appointees and the various parties that comprise this committee will make a selection on the individuals they wish to have appear before the full committee, but you will only have the one recommended candidate for a particular position.

Mr Grandmaître: Going back to Mr McLean's question, the decision has already been made by the minister.

Mr Campbell: I am really commenting on the wording of the terms of reference. That is a political decision that I really should not comment on.

Mr Grandmaître: I just want to clarify this.

Mr Silipo: I think we may be getting caught up a little in the wording. I appreciate, certainly from Mr Campbell's perspective and obviously from ours, that the wording is important, but I think we understand what it means. What it means is that the names which will be coming forward are the intended appointments as far as the ministers or the cabinet are concerned, subject to the process that is there.

That process is obviously what we have been talking about, which is in our ability to review those appointments. If, as a result of that process, we determine that we are not going to review certain appointments, then the process continues for those appointments and they will

then be firmed up as the appointments. Those ones we decide to review will go through the review process; at the end of that, we make whatever recommendations we wish to make. Then, as Mr Campbell said, depending on the recommendation, the process again goes one of two ways.

I do not think it is a question of getting confused about the process. I think we are all quite clear about what it means each step of the way. Whether we agree with it is another matter, but I do not see that there is any great sense of confusion about it.

Mr Kwinter: I think the sense of confusion is that on the one hand there is a feeling that this committee will be receiving applications from people who have submitted names, whether through advertisements or whatever, and will then make a recommendation; on the other hand, the minister will make a selection whichever way he chooses, whether it be through advertisements or just by picking people and then submit his recommended person to this committee for ratification and that the subcommittee will decide which ones it wants to pursue and which ones it is just going to let go through. That is my understanding.

Mr Silipo: But it is clear to me, and certainly I think it has been clear to all of us in the discussion so far, that the latter is the applicable procedure in terms of what we have before us and what has been described to us; that is, that the minister's or the Premier's office, depending on the appointment, will in fact be sending a name forward saying, "This is the person whom I intend to appoint to this particular position." Then the committee, as I said, has the option of going through the variety of choices that we have.

The Chair: I do not think there is any disagreement on that. I would like to direct a couple of questions to Mr Campbell.

You mentioned the input of the chair being critical, and I know that Mr Macaulay emphasized that as well in his report. You have taken a look at the temporary standing order. Do you see any flexibility in there for the committee or perhaps the subcommittee? Would that be another avenue that perhaps a subcommittee itself could have the opportunity to call upon the chair of an agency, board or commission to discuss the merits perhaps of a particular potential appointee or simply the matters that chair feels are important in terms of the selection criteria?

Mr Campbell: I think you are to some extent restricted by the wording of paragraph 12 of the terms of reference, which I will read: "In reviewing an intended appointment, the committee shall not call as a witness any person other than the intended appointee." On the face of it, that starts to tie your hands somewhat in the sorts of people you can call before you.

The Chair: By your reading, does it tie the subcommittee's hands?

Mr Campbell: In the sense that the subcommittee is part of the larger committee and it would be in some ways difficult to have a subcommittee doing what the committee cannot do. There might be a way around it if you could receive comments in some form other than the witness forum. You might be able to review a written comment. You might be able to conduct an informal interview out of the committee setting. But not calling the person as a witness in that technical sense, that might give you some room.

The other issue of course would be, is there any flexibility in the terms of reference themselves? These are not necessarily carved in stone. It may be advisable for the committee to ask that the terms be broadened somewhat to allow a broader range of people. But it may also be the case that a candidate on his own initiative or at the invitation of the chair of a particular committee could well have a discussion with the chair of the committee in general terms about the nature of the agency, the type of work, and there could be some sense of the chemistry between them. So perhaps the candidate might come to you or go to the minister who intends to appoint him and say: "I've met with the chair. I can't stand him or her and I think it's a hopeless task and I'd like to withdraw my appointment," or, "I've met with the chair and I think we'll get on extremely well and let's proceed."

Now, that type of question that committee members might put to an intended applicant would be: Have you had a discussion with the chair and do you think you can work in that context with that group of people? There may be ways to deal with it indirectly.

My best recommendation would be, is there any difficulty in amending the terms of reference to give you that flexibility? Short of that, I am sure there are other ways of getting some information and some sense of the mix between applicant and agency in informal ways. I am sure ways can be worked out to do that.

The difficulty with a formal presentation with the chair of the agency under oath, as it were, or appearing before you is that he may have very serious reservations, which in that sort of forum, a public record, are difficult to put across. There may be hesitations of competence which perhaps should not be expressed in the public forum. But by and large, it seems to me that where possible, the views of the chair of the agency should be canvassed to make sure there is a mix that works well for both the board and the candidate.

1030

The Chair: You raised another issue, which I am sure is a sensitive one with the opposition parties. That is the fact that if a particular candidate who has been subjected to a review creates problems for the government at some point in the future, the minister or perhaps the Premier even can say, "Look, the responsibility lies with the committee" or a degree of responsibility lies with the committee. Rather than simply voting against every government recommendation, how do opposition members of this committee deal with that sort of potential problem? Do you see any way around that sort of difficulty?

Mr Campbell: I think there are several areas in which a candidate for an appointment can cause embarrassment. Let's assume that we have a very simple case where there has been a clear error or outright misrepresentation on a curriculum vitae. It seems to me that this committee should obtain the assurance of the ministry that intends to

put a candidate forward that it has in fact checked the credentials and the university degrees are in fact university degrees and the paper trail is an accurate and verifiable paper trail. That would eliminate the major, massive error.

If the embarrassment is caused by what might be called an error of judgement which the agency member makes in the course of a case, makes outrageous remarks which rightly upset a large segment of the population, the sort of thing that one might not pick up in a CV and the sort of thing one might not pick up in the interview process, I do not know that there is much that one can do about that. I think it is a question of doing your best to screen people, doing your best to assist the presentation they make, doing your best to check the appropriate references and so on to see that they are the sort of person who is likely to use good judgement. It may be the price of opening the appointment process that the responsibility that ministers and governments have for their appointments will necessarily be diluted. There is a price to pay, in effect, and you have to balance the pros and cons and come to a decision.

Mr Kwinter: You commented about the desirability of having the chairman of the agency being in a position where he feels the new appointee is compatible; that again may present some problems. The whole purpose of appointing this person may be to counter or in fact to bring some particular different point of view to the agency, and the chairman may feel, "The last thing I want is this guy on my board, because he is going to be presenting a point of view that is contrary to mine and I don't really require or need to have a built-in concern or problem." How do you deal with that?

Mr Campbell: I think there are two aspects to that. The first is that most chairs respect the bipartisan nature of their boards, particularly, say, a labour board, where there may be management reps or union reps and so on. People understand that a number of boards in the province have as their aim the collecting of various views across the social spectrum. So if the chair takes a highly personal view of the valid social concerns expressed by a member, I would have more questions about the chair than I would about the appointment.

On the other hand, there may well be a chemical mix, the way some people get along and some people do not. It seems to me that the chair could point that out in an informal way. I do not know that you would want to go on record saying, "I respect their right to have those views, but I can't stand the way they express them." If you are in that sort of situation, you have to again balance the interests of having a public process with the sensitivities of the people involved. I am not sure there is a way out of that one. I think the real answer to your question is to have chairs who appreciate the nature of the board that they are chairs of and who appreciate the honestly held views of people and respect their right to hold those views and deal with it. If it gets to a personal conflict, that is a whole different issue.

The Chair: Anything else at this stage? Would you like to continue, Mr Campbell?

Mr Campbell: It seems to me that the terms of reference, as they have been presented to you, are extremely wise in allowing you the prospect of commenting on how the task of reviewing appointments is performed. This seems to be one of the first attempts in government to broaden the appointment process and it makes a lot of sense to have a six-month or so, shall we say, pilot project before looking at recommendations. To some extent it is premature to offer longer-term solutions, because we really have not quite figured out precisely what the problem is.

It seems to me that you can get a handle on some of the longer-term solutions by trying to define the problem in a preliminary way. Right now appointments are made by the government of the day and it is responsible for those appointments. The government is ultimately accountable for the quality of each appointment, the performance of the agencies and the individual board members.

The problem we are looking at at this stage would be: Is there an absence of public scrutiny and is there an absence of public confidence in the present appointments scheme? Is the present appointments scheme attracting weaker candidates? Is it attracting essentially political or unqualified candidates? I do not mean that political candidates are unqualified, but often there is a perception that a political candidate is unqualified.

The absence of acceptance of the candidate may involve a loss of credibility of the board, particularly if it deals with sensitive issues involving dynamic or difficult social issues. There may be a perception that the appointments process does not give you a true representation of the social makeup, the racial, linguistic and gender makeup of the province. There may be a perception that the present system gets you poorer performance. If we are trying to focus on the problem, we have an idea that various solutions might emerge.

It seems to me if the problem is attracting better candidates, one would make greater headway in getting better candidates by having a range of training programs, greater resources, job evaluation criteria etc, which will actually help the candidates do a better job when they are on the job. It is not just an appointment issue; it is an ongoing training issue. I think that should be remembered.

It seems to me that you may have better candidates if there is some screening and participation by the agency chair and that might be better handled in a less formal setting than this one. It might be perceived as more representative of the public as a whole if the standing committee on government agencies looks at a range of applicants for the job, not just one applicant for the job. This would give you the perception that the committee is indeed fulfilling a larger role in the choice of candidates, so some of these issues might emerge over the next several months.

The key is to remember just exactly what an agency is. It is sort of the fourth level of government, where you combine legislative functions, adjudication functions and executive functions. You have to remember the agency is not a court and it does not have the trappings of a court. There are many, many differences between agencies and courts, but the fundamental difference here, for the purposes of appointments, is the notion of judicial inde-

pendence. You will find people coming before you saying, "Agency chairs and agency members should also be independent, as judges are independent." There are some distinctions to be made there and I will speak of these very briefly.

You have to remember too in the notion of independence, when you speak of judicial independence you are speaking of judicial independence not so much for the benefit of the judges but for the benefit of the public which goes before those judges. They need to know that the judge is independent from the executive in that sense.

An agency is not in quite that position. An agency tends to in some respects reflect some of the government policy or is carrying out a statutory task. You will have the word "independence" used, though, to express a way to make a job more secure for an agency member. An agency member will be appointed for three years with a renewal period of three years. What you are really dealing with is, "How can I get a better candidate, who will have a securer position for that period of time, so that I can attract a better candidate?" That is not the same at all as independence, but sometimes those concepts get confused.

It seems to me that you can attract better candidates if you have appointments perhaps for a longer period of time, possibly consider a career path where candidates for an agency can move from agency to agency over a period of years. You may wish to encourage the development of contractual obligations whereby if a candidate's term is not renewed, he will be given a clear notice and severance pay to allow him to adjust. You may have to approach the problem of the quality of candidates from a different perspective and deal with it in different ways.

I think it might be useful to turn to the specific recommendations that Macaulay made, and if any of you have access to his report—I think Mr Pond has taken you through it. I do not need to touch on the key points, but if you have access, at page 8-21 he recommends the creation of a council which would "search out potential appointees through advertising or other appropriate means...to interview and assess candidates along with representatives of the involved ministry and agency." This would have the effect of conducting both an initial screening and casting a very wide net so that people could have a sense of being eligible for appointment.

He also strongly recommends that the chair of the agency be involved in the decision and that the appointee be given a very clear description of the nature of the mandate. The appointee should also know that this is essentially a political or governmental task in which the political process is involved.

It seems to me that the search the council could undertake would ensure that you do have a broad representation from all sectors of the community, and the council itself could ensure that the right range of people is questioned.

1040

Lastly, in considering appointments, you might want to look at the particular requirement of the agency. Those agencies which primarily adjudicate—that is to say, they determine rights and obligations of parties in a relatively formal setting—require members who are in a sense independent. They are acting more as judges. This is particularly important if you are dealing with, for example, a licence revocation matter, where the government issues the licence and appoints the people to the court that hears whether or not the licence should be revoked. The perception should be perhaps, in that setting, that these people should be independent, so there could well be contractual and other means to ensure that greater independence.

The other major report in this area is the Oueelette commission report. That emanates from Quebec. I thought I might perhaps after the day show this to Mr Pond, because they have come up with quite a detailed process for the vetting of appointments. They have developed a procedure for the recruitment and selection of members of proposed tribunals. There are quite a number of points. Basically there is notification of the vacancy in a position; a request by the minister to something called the administrative tribunal's council that a list be drawn up of persons qualified to be members of the tribunal; publication of a public notice; striking of a selection committee comprising a representative of the council itself, the president of the tribunal in which there is a vacancy, a representative of the minister and a representative of the public—and it seems to me that this is a better selection process because you are indeed covering the various bases—an obligation to evaluate the candidates; an obligation on the part of candidates to have a minimum of 10 years' experience relevant to the position to be filled; an obligation on the part of the committee to doublecheck the candidates' knowledge, including the extent of their knowledge of the sector, their clearsightedness and levelheadedness, their conception of the role of the member, their capacity to work as a member of a multidisciplinary team and the candidates' adherence to the values specific to administrative tribunals, in particular accessibility, simplicity and speed at decision-making. It is important that the candidate understand that this is something which is done in the public interest; it must be expeditious. Lastly, a provision establishing that the list of persons found to be qualified would be valid for one year so that you have in effect a pool of people into which you can dip to get someone for your particular tribunal but that this pool would be renewed every year.

These are some of the ways that you might go about looking at a longer-term solution to the problem of vetting and screening appointments. As I said, those are basically my views. As I said earlier, the approach which this committee is taking, reviewing the appointment issue, seems to me key to the whole administrative tribunal area. Second, I think it is extremely valuable to discuss this because it affects agencies as a whole. The six-month trial period is an excellent idea because it will give you a sense of the process. It seems to me that there are models out there which you can well consider over the next several months which can give you some guidance on the longer-term recommendations.

Those are my more general comments on the second part of your mandate.

Mr Kwinter: Mr Campbell, I would like just to explore with you some of the areas of this role as an inde-

pendent agency, board and commission. I think that is the crux of what we to look really have at. Is a board, agency or commission independent? Should it be independent? Is it not an extension of the government? If it is an extension of the government, then it should be a tool to effect government policy, or is it in fact independent and totally independent of government? If it is independent you have a basic problem. You have a problem where you appoint someone for a three-year term with the possibility that he can be reappointed for an additional three-year term. That means that in the first three years the appointee is very careful that he does not do anything that is going to upset the government so that he makes sure he gets reappointed. The answer to that of course could be that you appoint for longer periods of time, one term only, six years, that is it, and as a result you cannot be removed except for cause. I would be curious to get your comments on that.

Mr Campbell: First, you are correct that this is perhaps the single most important and difficult issue in the whole area of the role of agencies, boards and commissions. Agencies, boards and commissions live something of a hybrid life. They are not quite courts. They are not quite legislative assemblies. They are not quite the executive. They look like all of these in one form or another. The tasks given to a particular agency may shift over the course of the work of the agency. In one matter it may primarily adjudicate. In another matter it might set a policy. In a third area it might administer or examine or inspect. So the agency itself carries out a hybrid task.

When you apply the relatively simple notion of independence of the judiciary, which is the classic model of independence, to that hybrid function, that three-part function, you have real definitional problems. Nor is it enough to say that this particular agency primarily adjudicates, therefore its members should be independent, because often that adjudication process may have components of policy-making to it so that no particular task is going to be completely clean or simple. So it is indeed an extremely difficult issue.

Another aspect of it is that the government of the day may well create a board or agency to carry out an aspect of policy and the minister may indeed give the board, quite properly—or the statute may authorize this—directions or interpretations or make declarations as to the public interest. For example, a minister may make the decision that so many licences are going to be issued and the board will have to accept that as the norm which the minister establishes, and the minister is indeed ultimately responsible for that type of decision-making. On the one hand, you have the hybrid function; on the other hand, you have the notion of independence of the judiciary, and next you have the concept of a task to be performed. At the same time, the minister also may wish to distance himself or herself from the work of the board. The board may be given a task which everybody knows is a political nightmare and people will want to back off and duck the responsibility. you will find that the word "independence" is trotted out in those situations a lot more quickly.

There is no simple answer to the very sophisticated question you have put. There is just no way you can say, "Here is an independent agency, in the strict judicial sense, and here is one which is beholden to the government." It is extremely important to know that term does not really cover the agencies, although it is used a lot in connection with agencies.

The best way to perhaps understand the role of agencies is to say they are at arm's length. The arm is still attached to the government but it is a little distant from the government. Depending on the type of task to be performed, you want that arm to be a little longer. So if you really have a situation where a minister says, "I want to revoke somebody's licence," then you want the arm to be pretty long. If, on the other hand, you have an agency which is looking at a rate to be assessed or a price to be allocated or whatever, you may want that arm to be quite short. The problem is that the arm has to sort of move, and the problem is that the arm must be attached to the body of government for the purposes of accountability. It is not like a judge who is another body entirely.

This makes that concept very difficult to apply in practice. You have to look almost at the specific case which a specific agency is performing and say to yourself, "Is this the sort of case where the arm should be much longer, or is this the sort of case where the government should have tight control?" The answer to that, the solution to that, is in the drafting of the statute which sets up the agency. If the arm is to be a short arm so that you have a policy direction coming from the minister, there should be a statutory provision which says the minister is entitled to make a policy determination and to put that before the board and the board will take that to be conclusive. There is clear statutory authority for that sort of activity.

1050

If on the other hand the agency is to be dealing with matters involving disputes between individuals and that very same ministry, you may want to build into the agency statute provisions which would protect the chair in those sorts of situations.

Overall you could possibly create a situation where a single group of administrative judges who have independence could chair hearings of the sort where an adjudicative model is primarily required. This would be a step beyond the existing agency concepts we have here. You would be moving to the US model where they have administrative law judges who make a career out of judging sophisticated administrative cases.

That would give you a cadre of people who are like judges who would chair matters where it is primarily adjudicative, where the interests of the government are opposed to an individual, where you want to ensure that the public is protected by having a judge or an administrative judge who is indeed independent in that stricter sense.

It is a very tricky problem and you have to look at each agency, the task the agency performs, what is going on, what are the interests. Is there a public policy which has to be defended, in which case it is ultimately a government decision? If everyone knows that is the rule of the game, we will accept it. If we are dealing with the interests of an individual against the government, you want a slightly different forum. Trying to have a single rule to cover all

agency members may be impossible given the complexity of that.

It may well be that as you look at the larger mandate you may have to address some of those basic problems, so that you say: "When we review applicants, we must have in mind the broad functions which they are to perform. We will want to ensure that the job specifications, the tenure, the salary, the method of appointment, the method of review and the method of removal is somewhat consistent with the task they are to perform."

Moreover, we want to ensure that the contractual arrangements made, the support, the resources given to these members are such that they can do their job. We will attract a better candidate and remove from them the fear of dismissal if there is a significant severance package involved so that they can do their function without fear of having to look for a job in a year's time.

Clearly the contractual relationship should be made much better and protect people who are entitled to severance, entitled to notice and all those sorts of things. That is one of the ways you can deal with that sort of question.

I am sorry to have gone on at such length. It is so difficult.

Mr Bradley: I want to deal with a couple of questions. I will start with your last statement about, how do you protect those who are on agencies, boards and commissions and what kind of severances do they have?

One of the difficulties that a government will face, obviously, is when it wants to get rid of somebody on an agency, board or commission, perhaps for what it considers to be a valid reason; whatever that reason is, it wants to get rid of the person. Often governments will not get rid of the person simply—I will not say often—because they do not want to face a package that will appear on the front page of one of the dailies or on one of the television networks that is a platinum handshake or something of that nature.

That is one part of it. Do you not see that as a problem if there are a lot of ways of a person leaving with a golden if not a platinum handshake? Governments are going to be inclined to leave people there and just ride it out.

The second part—perhaps I should wait to ask the second part but I will put it in now—is, what penalty can governments, if appointees were to give these undertakings for severance and so on—what undertaking could a government expect of an appointee who in the middle of a hearing decides that he is going to disappear? That person may be key to a hearing that may be going on for a number of years.

Mr Campbell: Both are difficult questions. I think there can be some solutions, but first the issue of the platinum, golden, silver, bronze, whatever handshake, depending on the nature of the problem in the minister's point of view. It seems to me that the government and indeed the process would be better served if in fact you had somewhat consistent guidelines throughout all agencies, boards and commissions so that the departing member is not seen to be given a platinum handshake. It is probably defensible if everybody gets the same level of platinum.

You could have a situation with a combination of payment based on their years of service plus whatever additional months are required to reasonably expect them to relocate and find further work. If there were guidelines and standards, then that would seem to be a way of avoiding that sort of political problem.

Second, if you had someone on your board that clearly was not working out, for good and valid reasons—I am not speaking of political reasons but good and valid reasons—then the chair of the board would have a lot more flexibility and power to improve the quality if the chair knew that he could give someone six months' notice or whatever it was and get rid of him. It would save an enormous amount of headaches and bad decisions, particularly in the regulatory field. So that would be of great benefit, as long as the guidelines are made and known in advance.

The real problem would be the issue where a board member, acting either independently or within that arm's length framework, doing his best to come up with the best solution to a problem he sees, deliberately, inadvertently, inevitably has a collision with the minister of the day. It seems to me that if that situation arises, you just cannot avoid the headlines. I think that may well happen. It might be possible in the sort of framework Macaulay suggests, in the council framework or perhaps before this committee, to have some way in which the individual candidate and the minister can have it out in some sort of forum. This is not palatable, particularly if you are a minister, but it may be in the public interest to have a forum where this can be canvassed.

I use the model of the review of the judges' conduct by, say, the House of Commons and the Senate. A judge is in position during good behaviour and can only be removed on address of the Senate and House of Commons. A judge who draws the ire of the government of the day would have a political forum in which he can express his views. His independence is assured in that way. Something perhaps akin to that could be worked out if it was felt necessary.

The second concept, the penalty: There is very little that one can do to convince someone who wants to leave that he should stay. In fact you may do yourselves more harm than good keeping him there. The trick with that, it seems to me, is to have on any significant matter which may run for two or three or more years—I am thinking particularly of the environmental and energy hearings, which run many years—a panel that is composed of enough members that they can cover in case someone collapses in the middle or says, "I've lost my enthusiasm."

It is inevitable that there will be some changes in personnel. I think the track record is probably pretty good in terms of people adhering to their commitments. Certainly the chair of an agency can look at someone's time commitments and look at the term of office and say, "No point appointing such and such a person; he has one year to go and this is clearly going to go two years." It seems to me there are other ways around that, including two or three members on a particular panel and clear statutory authority

that the remaining members can proceed and that sort of thing. If it is all established, then you are away to the races.

Mr Bradley: That second part, the last point you mentioned, is certainly one that would be necessary, and that is that there be a clear direction that the others who are left on the panel can in fact make that decision. Because one of the sides, and there may be more than two sides in it, or one of the parties to the hearing may challenge the results of the hearing based on the fact that someone who has sat on a hearing for three years is then gone and the two others are there.

Mr Campbell: There are other ways as well that one could cover that. One would be by allowing a fresh appointment who could in a sense pick up what he needed to know by a reading of the transcript. That is a little harder because he has not really participated, but you might be in a situation where you have a tripartite board, with a labour representative, a management representative, for example, and a neutral third party. If the labour representative is lost to the board, then someone clearly would have to step in and we may have a provision like that. Again, there are ways around it, but it is an extremely difficult situation if a member decides not to participate further. It is potentially very, very difficult.

Mr Bradley: I have a concern as well, though I understand the reason, and you outlined it well, why you believe that the chair of a committee should have some influence, perhaps over appointments or some input, let's put it that way, over appointments and might even have some influence or input in the removal of someone from an agency, board or commission under the jurisdiction of the government. This is where the dilemma comes in, and you have not suggested that it is an easy situation; I realize that. I share the concern of Mr Kwinter that the chair can sometimes see it as her or his board.

To pull a name out of a hat, Mr Macaulay served, in many cases, the people of the province of Ontario very ably. It may be called the Macaulay board. I just used it because his name is here, but it may be called the Macaulay board and then it becomes fashioned in the way he sees it in that specific case. I am not suggesting on a personal basis for Mr Macaulay or any other chair. Is that not a danger, that in fact it becomes very dominated by the chair? I guess politically if you can control the chair, you can control the agency, or the chair independently may just feel that he or she wishes to control that agency.

Mr Campbell: I think that is a greater problem for the government, frankly.

Mr Bradley: That is right.

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Mr Campbell: Again, an individual in a position of, shall we say, partial tenure, six-year tenure, will of course have a major influence. More than that, if they are a strong personality and have a great expertise in a given area, they will inevitably play a major role. Their role will be greater than, with all respect, the minister of the day who walks into office and has to deal with massive briefing materials and make an instant decision on a case which has this much material. Their inclination will be, initially at least, to be influenced strongly by such a chair.

It seems to me that in a sense there is really no easy solution to that either. The appointment stage is not necessarily going to pick up personalities of that sort. In effect, if you have a sensitive board, you want a strong personality who can carry the board properly and run it properly and deal with the council and the heavy financial interests that are involved. You want someone who will perform at that level and you are not likely to get someone who is an instant deferrer to the powers that be under those circumstances.

If there is a major collision between the minister of the day and the chair, there are several ways in which that can be resolved and so on. One would be if there is a statutory provision which says that the minister can present some form of public statement or public determination on the interests that are at stake and say, to use the energy example, that for such and such a reason, the rate will be such and such an amount, that is it. If the statute provides for that sort of intervention and the accountability for that decision is in the political forum, so be it and that is the end of that issue.

Another model of course, as I mentioned before, would be to go the judge's model where a chair in an independent role is subject to removal only if there is some form of debate before a standing committee or another committee of the House.

In the middle ground, though, I think what you are faced with is a mess, quite frankly, where it is a question of personality, pounding the table, maybe public posturing and so on. It is extremely difficult.

It seems to me that it is inevitable that you are going to have some of that and it may the price that one pays for a system which has that level of flexibility in it, where interests do indeed have to be balanced. It may be impossible in the short term to resolve that sort of issue through a statutory framework or through an appointment process.

Mr Bradley: Another plan—if I ask it in the form of a question, I suppose it is such a leading question that the answer becomes obvious, so let me put it in the form of a statement perhaps that you can comment upon. I will put it in a question. Would you see a necessity for ministers, particularly of a new government, being extremely well informed of what role they can play and what role they cannot play without getting into trouble in the process?

I will give you some instances. There are some cases where ministers are involved in the decision-making process and then are the ultimate judge and jury of an agency. In other words, the minister makes the decision. Someone challenges that decision. It goes to the agency, but it comes back to the minister for the final determination.

A smart former assistant to a cabinet minister from years gone by may well go to court to point that out and therefore limit the powers of a minister in that specific case. I guess that education is required. The minister has, I suppose, to be either told he cannot participate in the decision-making process if he is going to be the ultimate

judge, or you remove the minister altogether as an ultimate judge.

Mr Campbell: There are a couple of aspects to that. The absence of education is not just at the ministerial level. It is often at the senior level of the civil service as well, and often, unfortunately, at the level of the chair of a particular board. Many chairs get into an appointment without a lot of knowledge of the administrative law consequences.

It is not helped by the stated administrative law, which is indeed in flux, where the rules pertaining to one agency may differ drastically from the rules pertaining to a second agency, and a court interpreting the rules will come to some decision one day and the next day come to a different decision on slightly different grounds based on slight variations in the statute. It is a very thorny issue and it is not a question of having a quick, one-hour review of administrative law in which you get five or six principles across. It is a question of looking very closely at the individual situation. There may even be situations where the statute sets out a track but the track itself and the circumstances of the case are patently unfair, and so you will have the judges looking at this and saying, "While the statute says this, the common law is such that we feel fairness in this case is required." So with the best legal chart you can still run afoul of that sort of concept.

Clearly, there are a number of issues like that. One of the advantages which Macaulay saw to the creation of the administrative council was a forum to provide that sort of education at a variety of levels, including the senior levels of the civil service and the chairs of agencies. He also contemplated the creation of a pool of lawyers who were relatively skilled in the area and also looking at the various statutes by which agencies are created to see if the language can be made consistent and so on, so that you would try to minimize the statutory differences and create a pool of people who had greater knowledge.

One of the great difficulties with government lawyers is that they may be quite familiar with the law pertaining to their own agencies, but the administrative law covers the range of government, and so their advice may well be not as broadly based as it should be.

With respect to the direct education of a minister on a particular legal matter, then, you may fall into the area where it is essentially a political, not a policy decision, where they are reluctant to involve the legal people in the civil service. Under those circumstances there may be a legal prohibition against the minister obtaining his or her own independent legal advice, and there is quite a lot of case law in the extent to which boards can go to get advice and so on. So even asking for advice can be a difficult situation for a minister.

Again, one of the possibilities would be to have within the framework of the government of Ontario some form of council which could act as an advice giver in situations of that sort, where it would be clearly understood the guidelines which a minister must follow in asking for advice so that there is some common approach.

It seems, though, that the general principle of educating a minister in advance for that sort of issue is just not worth the time. The issues can be so complex that I think the best one could do would be to say to the minister, "Be careful in this area, but I am not sure whether you can ask me or not when we get into that area." So, it is indeed a difficult issue.

Mr Bradley: I do not know whether somebody else wants to ask a question, but I could follow up with a further question in this situation and get your comment on it. In terms of law or in terms of practice set down, there is one way of dealing with an appeal to cabinet; in terms of what some people would consider to be common sense, there is another. I will give you three quick examples of that.

The Ontario Highway Transport Board may make a decision that goes to the legislation committee for consideration, the appeal does, or the Environmental Assessment Board decision or the Ontario Municipal Board in certain cases, I guess, can still be appealed to cabinet. A cabinet minister is told, "Well, if you talk to somebody about this case, then you cannot sit in on the cabinet meeting and make a decision," which might well sound great legally; logically it does not, I mean, if it is the person who is complaining saying, "This is a problem and this is why we think you should overturn this decision."

The practice that was followed, I believe, by the previous cabinet was that if you had spoken to someone, if you had received direct representations from someone, you had to excuse yourself from the decision of cabinet and the person who is most knowledgeable, then, is removed from cabinet in making this decision.

I will just get your comments on whether you think that should be changed.

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Mr Campbell: There is quite a body of law on the role of cabinet situations of this sort, and speaking from memory is very dangerous in this area because of the technical nature of it, so if I can offer a general comment and then perhaps back off it if later on someone arrives and says, "My God, who told you that?"

Generally speaking, my own view on situations at the cabinet level is that you want to try to aim at common sense, not necessarily law. It seems to me that if the appeal to cabinet is really an appeal on policy aspects, that is to say, in the public interest, where do we balance the interests of these parties and these parties, knowing the cabinet is on the hook for the decision?

It seems to me that if the parties know all of this and the statute sets that out, then the cabinet wants to come to the best possible answer and it should take the best possible advise, and that includes whatever information they can get from anywhere. If, on the other hand, you are talking about a statute which provides for some form of direct appeal on the record on the material before the cabinet and that sort of thing, then you are into a setting which is more law in form, more adjudicative in form, and that is where it seems to me you would want to be more careful in hearing from other parties.

Right now I am involved in one of these sorts of appeals and the advice that I have given to the clients that I

represent is to not try to lobby the minister in any way, just to back off and let the cabinet deal with the issue and so on.

The commonsense approach though, to my mind, where it is clearly a policy decision, would dictate that the cabinet make the best possible use of its resources. Now again it is a tricky question, you have to look at these individual circumstances, but that would be my leaning in matters of this sort. It is wrong to take a general rule and try to apply it to all situations particularly if there are quite significant differences in those situations.

Mr Bradley: Would you have any comments on—in the middle of a process or perhaps at the beginning of a process, but the process is under way—the governments starting to change the rules? I do not want to be specific because then we get into issues, but I will try to go into Fantasyland here for a moment where governments decide, for instance politically, that they are going to—I will give as an example, because I know the area, the Environmental Assessment Board, where there is consideration of certain matters and the government decides politically that it should not go in this riding or this riding or this riding and starts limiting the process or governments say: "This option is out. Even though there is a hearing under way, we have just decided this option is in essence out."

First of all, are governments allowed to do this? Maybe, if you do not want to give an answer to that question you do not have to, but you have been very frank here. Are governments legally allowed to do that? Ethically is another matter, I will not ask you on that.

Second, what is your comment on the process when governments start removing certain components during a hearing, certain options during a hearing?

Mr Campbell: You said that you would not like me to touch on the ethical side of it and I am sort of inclined to back off the whole thing.

Mr Bradley: You can touch on ethics if you want.

Mr Silipo: Your fee for today does not depend on the answer.

Mr Campbell: The issue, it seems to me though, is that if the government has given some sort of public undertaking, a certain process will be followed and the rules are changed in the middle of that, then there is a political sanction which the government may have to pay. That is going to be clear.

Second, the technical question would be whether the government changing the rules of the game, so to speak, in the middle of a hearing would taint that whole hearing process and invalidate it. That would depend on all sorts of things, whether or not the minister was entitled to intervene by delivering, say, a certificate of what the determination of public interest was, whether the rules were canvassed with all parties and agreed to, whether there was a statute passed that said, "This is what's going to happen." There might be a hundred and one different ways of having an effect on a hearing which is in midstream, and so if the minister of the day decided to change the rules of the game to attain a particular result or come to a particular decision, then you would need to have extremely careful legal advice on what the effects would be on that particular public hearing.

In any event, I would imagine the real price would be more political than legal under those circumstances. If there is room in the statute for the intervention of the minister as a party before proceedings, there may be other ways in which the same objective could be obtained. If there is room for the delivery of some sort of statement, there are other ways of doing it. If there is room for a cabinet decision at the end of the process where the final decision is made by cabinet, then that is another way of doing it. It may be possible to change the terms of reference of the hearing and in that fashion touch on new issues which had not emerged at the start. There may be all sorts of ways of dealing with it.

Mr Bradley: It gets back to the dilemma we all face and that is, who shall control the process, elected people or agencies, boards and commissions and courts, the fact being that agencies, boards, commissions and courts are considered to be independent and the process to be virtuous. The political process is not always considered to be virtuous but, on the other hand, there are many who believe that governments should make those decisions and live or die by them. It is a very difficult situation.

I remember when I was Minister of the Environment I always had to say, "I am probably the only one in the province who can't comment on this." When they would, for instance, select the Ontario Waste Management Corp site, it would be about 25 miles from my house and people would say, "Don't you think this is this or this is that?" and I would say, "I can't comment on that, because I don't want to be seen in any way to be interfering with the process and with the ultimate results of the hearings." I may have had some strong views one way or another on those but could never do it.

That is a difficult issue to address, because on one hand you are Minister of the Environment or Minister of Municipal Affairs, whatever it happens to be, and on the other hand there is an agency out there making an independent decision hearing all sides. I do not know whether I have decided myself where I come down on that issue, because I am very much afraid of courts taking over right now what legislators are elected to do and that the role of the Legislature and the responsibility and power of the individual legislator have diminished considerably since I came into this House almost 14 years ago.

The Chair: I seem to recall you commenting on that site selection in the House on occasion—in a positive way, as a matter of fact.

Mr Wiseman: I would like to ask a question. It is along the lines of what you are talking about, because I do not necessarily agree with what Mr Bradley just said. Given that the Charter of Rights and Freedoms has the notwithstanding clause, does that not give the power of any legislative body the right to do pretty much whatever it wants to?

Mr Campbell: Yes, and if the experience in Quebec is any guide, there is a political price to pay for that and that of course reasserts the ultimate sovereignty of the Legislative

Assembly. The charter in a sense is a balancing act. It says legislatures can do certain things apart from these basic things, but they can also overturn the basic things under these circumstances. So you have the balancing act going on. I am not an expert on the Constitution or the charter, so beyond that general comment I do not really want to go.

Mr Wiseman: I was thinking along the lines with reference to the agencies that the government has jurisdiction over, that ultimately the buck stops with the government in power, in that if it wanted to exert it it has the right to exert it.

Mr Campbell: Ultimately the responsibility for the work of agencies is with the government, yes. So if the government finds that the particular agency is not performing, or is creating political embarrassment, or for whatever reason, ultimately it can do what it needs to do to resolve that. That may include passing a statute which says, "Sorry, agency, you're all fired, you're gone, no more." There may be a political price, but that is certainly within the realm of possibility.

Mr Bradley: It comes down surely on that issue to deciding there either is a process that is independent or there is not. Do not pretend it is not, then. All I am saying is, I had lots of views on a lot of things that were happening, but there is a process there and if the process is to mean anything, the politicians cannot get in the middle of it and start saying politically, "It's not going in this riding," or, "It's not going in that riding." You know, I could have said politically, "I don't want the OWMC 25 miles from my riding," but I did not do that, because there is a process there.

I am just pointing out, you know, you may think you get a political victory and you may be able to smile at the end of the day about the fact politically you said it is not going there, but then the process does not mean a damn thing. So either decide you are going to make it a political thing and say it is political: "We're not having it there and this is the reason," or you let the process decide it, but you cannot have it both ways.

Mr Runciman, the Chairman, had a similar situation confronting his riding where judgements had to be made and I may have had some interesting points in that situation. I could not comment on those at that time. It could have been removed. If I thought Mr Runciman was a good guy, I guess I could have interfered politically and said, "It's not going in the riding," but since I knew he was not, I let it go.

The Chair: I got rid of it myself.

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Mr Perruzza: There is an assumption in what Mr Bradley has just said that the process is not political. I am not quite so sure that the process is not a political one, just by virtue of the appointments and by virtue of their dealing with essentially political matters. So to say that it is not political and to say that at some point in time the higher political body should not or could not possibly play a political role in the decision-making, I do not see that, I am not quite clear on that. But I do have a question for the representative here today. It relates to tenure and length of appointments. I would like to get a sense from you on what your feelings are on that.

Mr Campbell: The norm in Ontario is a three-year initial appointment with the likely prospect of renewal for a further three years. It depends of course on the statute, but that seems to be a normal or usual term. The shortness of the term and the renewal option in the middle of it is, from the point of view of the notion of independence, quite startling. If you take the view that these people are performing the independence role, it does not at all square with the judicial norm, which is essentially tenure until you are 65 or 70, whatever it is. So there is quite a disparity as you look at it. Perhaps the justification is that in many of the boards you want to have some turnover to represent different views from time to time to have some sense that there is public input. Views change and so on so that you want to have a flow of people through. It is not quite the same world as the judge's world, so you can expect and want to have the views of representative groups and so on so that there is some justification for that limited tenure.

Also, in many cases the specialists on the boards will have ongoing careers in their line of work and will be leaving a job or a career and doing the board work for a while and are quite content to go back to their jobs. It is part of their overall career path. But clearly, your point is extremely well taken in the sense that the whole issue of tenure has to be thought about as part and parcel of the whole appointment process and the whole process of quality of agency performance. You may have someone who does a first-rate job, has learned all there is to know about an area, is an excellent decider, sensitive to the political issues—and you are right, there are political issues involved—who, having mastered this and undertaken a huge learning curve, is at the end of the sixth year. So all of a sudden is this to be lost? It seems to me pointless.

On the other hand, as you say, you may have someone who after the first year finds himself to be completely at sea, has angered everyone else on the commission and has created political uproar in the House. So you may want to have a mechanism to get rid of someone a little earlier than that.

The whole issue of tenure is part and parcel of the proper working of the boards. You have to look at the nature of the board, the nature of the task it is to perform, how tenure fits with those criteria. It is not enough to say six years is too long, too short. It is an arbitrary number which happens to have been chosen, but it could well be extended or reduced, depending on all sorts of circumstances. That is the best I can do. I cannot give you a specific—I think it should be seven and a half years. I cannot say that.

Mr Sutherland: I wanted to come back to Mr Bradley's point, because he left me with the impression that work of commissions either has to be independent or it has to be a political process. You have to decide one or the other.

In terms of my concern about the public faith in the process, I was just wondering if Mr Campbell could

comment in terms of the fact of when you combine that. I specifically refer to when board decisions are appealed to cabinet. From experiences that groups have had in my constituency, there seems to be a real concern about that entire process. Really, if anything creates a degree of cynicism and lack of faith in the process, it is that type of combination. It is very hard for people who do not follow the political process or follow government on a regular basis to differentiate between the two.

Mr Campbell: I agree with you that public perception is an extremely difficult one because of the nature of the terms that are used and the tendency of people to confuse agencies with courts and the nature of the language. "I am independent," which means "I am above this political fray," has a non-political aspect to it. So the language itself is a little confusing. I think the better term is "arm's length," which suggests the link with government and an element, a degree of independence. But it is indeed an extremely confusing area.

The public perception that an appeal to the cabinet necessarily involves a political decision has both pros and cons. There are usually some people who support the decision, are pleased that finally the cabinet will have a chance to respect their interests. There is that sort of process as well.

It seems to me, though, that if at the outset of a regulatory process, like the location of a waste management plant or something of that sort, the track is well set out so that people know there will be a series of discussions and an examination of the evidence on the pros and cons, the technical side of a decision, and if they know there will also be a political decision because the issue affects the province as a whole and they know that at the outset, that starts to reduce the apprehension they might have if there is a sudden decision by a minister on his own initiative to say, "I'll scrub the results of this work." If the process is set out, I think people tend to accept it.

Second, if the process is set out and there is room for consultation at various levels, including writing letters to the editor and appearing on television, appearing before the board as a party and then lobbying cabinet in some way, then also people have a sense that there are ways in which they can accomplish their own objectives, not necessarily a bad thing.

The issue of the way in which cabinet deals with matters is an area which could possibly be looked at so there was a clear guideline on what is going to be before cabinet, who can comment on the material, what right of response is there and so on and so forth. Right now there is not an awful lot on that process and it might be useful to have that process out, explained in greater detail.

These are some of the considerations that go into it. There is no quick, easy definition of independence. You would have to read it in the context of the particular agency, and it is very hard to get that across to the public.

Mr Grandmaître: You worked very closely with Mr Macaulay. Can I pick your brains right now? Mr Macaulay recommended, or put a lot of emphasis on, better training or training of not only chairpersons but committee members as well. What did he have in mind as far as training is concerned, seminars or what? Trained to do a specific job on a specific ABC, or a general training?

Mr Campbell: In his report there is quite an extensive series of chapters on the training and some sample seminars and sample course outlines and so on. Quite a lot of time was spent on that. He found that there was very little training; most training was on the job. Many agency members, of course, will bring to an agency their own expertise, but there were several different types of training required.

The first is the specific training in the subject matter of the agency, and often you can only get that through experience and by listening, by your own reading, possibly by having seminars, lectures, reading lists given to you by experts in the field in a generic sense.

The second area of training is for all agency members everywhere, and that is essentially how to be a good agency member. That, if I can outline it very briefly, would involve what the hearing process is, basic rules of evidence, what agency members can and cannot do, seminars on mock hearings, what can go wrong—you have a hearing where every conceivable matter can go wrong—and so on. So he contemplated a series of training seminars.

Right now, because the agencies have perhaps 10 or 20 members, it is uneconomical to put on a seminar of that complexity for one or two people. For that reason, he recommended that this council act as a training body and would pull together all those members who are in their first year of appointments and say, "Today and tomorrow we are having a seminar on the 10 things you really need to know to get you through the next six months, and then we'll have another seminar on the next 20 things you need to know." He was saying, "Let's co-ordinate this and make sure that we are not duplicating and wasting time and so on." There is quite a detailed overview of the education.

The Chair: Do you see any problem with the appointments secretariat carrying out that sort of function rather than the council, as suggested by Mr Macaulay, being responsible for that sort of thing occurring?

Mr Campbell: When you say the appointments secretariat, do you mean the secretary of this particular committee?

The Chair: Yes. Out of the Premier's office, I am talking about.

1130

Mr Campbell: I see. I am sorry. I think it is probably largely a question of resources. I do not know that it needs to be apart from the government. The council which Bob Macaulay was recommending was indeed part of the government structure. It was not an Ombudsman-like body or a freedom of information body or a Provincial Auditor body. It was part of the government operating staff, taking some of its staff from government, so that if some other group within government wanted to do that, certainly to my mind there would be no technical reason why it could not. I think the real issue is resources.

Mr Grandmaître: Does that mean that we can read from Mr Macaulay's recommendation that we need more full-time people?

Mr Campbell: It depends on the nature of the board. If you have a board with a very heavy case load, then clearly you may need full-time people for reasons other than training. If you have a board that hears two or three matters a year, you would not need a full-time person for that.

I think the real issue is, do the people who make the decisions on a given board have enough technical training to deal with that issue? It has to be given in some form or another and if they are not given anything, whether they are full-time or part-time, the process will suffer.

It seems to me that the educational component is a very significant component of the whole appointment process. If the aim is to approve the quality of decision-making, the quality of board performance, more than just the appointment process has to be looked at. Education is key to that as well.

Mr Sutherland: Just to pick up on some of the training aspects, you made reference to the way the Quebec system is set up and I did not get a sense whether you were endorsing that system or just outlining it. One of the things pointed out in there was that people should have at least 10 years' expertise in the commissions.

Is it your opinion that most of the government commissions—I guess this is naïveté on my part; I am still learning all these commissions—in general government commissions, more than ad hoc committees, require people with expertise in that area? I am thinking in some cases that maybe the problem is that you have too many people who have been part of the process, so then you need someone outside who does not really have a lot of knowledge on that but may be able to take everything in and make a good assessment.

How should the committee as a whole look at that process within the context of how Quebec has done it and just how should we be looking at appointments in general?

Mr Campbell: I should clarify that I was not endorsing the Quebec model. I was just drawing it to your attention.

Mr Sutherland: No, I did not think you were.

Mr Campbell: They have grappled with this to some extent, so I think their experience and their recommendations might be useful, just to be looked at as a model.

The actual wording, which I should read to you, is that the tribunal which vets people would ensure that there is an obligation on the part of the candidates to have a minimum of 10 years of professional experience relevant to the position to be filled. This would mean, for example, if you have a board where there is a heavy legal component on process or whatever, you would want to get a practitioner who had practised for 10 years. That in my mind would not be necessary for absolutely every tribunal. It seems to me that the role that many tribunals have as their purpose is the canvassing of a variety of views, and looking for someone with 10 years might well close off a good range of candidates. So I do not think that is an absolute criterion.

What you essentially want is someone who has the requisite professional skill for the task of that particular board, and it may be that for a board you need a range of skills and no one can be expected to have all of them, but the mix on the board will have all of them. That is what you are looking for. You would say: "We need a lawyer, we need an economist, we need a doctor, we need whatever. Let's get them here so that we have this range of expertise."

The problem of a board that has a particular mindset, where there is a need to adjust the views of that board, or the board has fallen into habits which are not conducive to good process or whatever, there is nothing to prevent a suggestion by the minister to the chair of the board at the monthly or annual or whatever meeting there is: "I think something can be done about your process, I've been getting complaints. Would it be advisable for you to get some outside consultants to look at the way your process is going on? It might be a good idea for some of your members to have some counselling on how to deal with difficult witnesses."

There may be ways in which that sort of thing can be remedied, short of a complete house cleaning. If, on the other hand, the board has got to the point where it has such a mindset that justice is not being done, then clearly only through the removal of people and the fresh appointments of new people can we remedy that. There are a variety of ways in which you can deal with the problem.

Mr Sutherland: Then is it a question clearly of having a clear mandate for the agency, board or commission to know whether you specifically need someone with expertise or you need someone who can handle the committee and the process in a professional manner.

Mr Campbell: That is absolutely correct. When you look at your own list of candidates in the course of the next six months, one of the key problems you will face is taking the credentials as they appear to you and saying: "Is this body of credentials going to meet the needs of that board? What does that board really do? Is it more than just an expert lawyer? Is it some expert lawyer with some knowledge of some other area?" But more than that, "Do they have the capacity to listen?" or "Do they have the capacity to listen politely?" which is sometimes different and "Do they have the capacity to get the logical sequence right?"

Mr Sutherland: So then it should not just be a question of technical expertise in a specific area.

Mr Grandmaître: Common sense.

Mr Campbell: Common sense, exactly. Politeness, knowledge of the basic legal principles and so on.

Mr Wiseman: This raises an interesting question, in my mind at any rate, that for us to evaluate a candidate properly, maybe we as a group should know who else is on that board and what skills they have in order to make a judgement as to whether that person is going to fit into there or whether the skills he has are redundant and not really suitable.

Mr Campbell: That could be the sort of question you might put to the chair of the board if you have an opportunity to interview the chair of the board. But it might be, in the short term, because you are dealing with a six-month mandate, a six-month trial period, to ask that the minister who intends to appoint someone verify that they have done that sort of background, that they have assessed the needs of the board, assessed the type of work to be done and in effect said, "Our view is this person meets these basic qualifications." It is a tricky little point because the nature of board work is such that the minister might not necessarily know an awful lot about it, so that is an aspect of the problem which I think may emerge in the next several months.

Mr Kwinter: If I might just comment on that, in my experience, both as the Minister of Financial Institutions and the Minister of Industry, Trade and Technology, particularly at the Financial Institutions and Consumer and Commercial Relations ministries, I had lots and lots of boards. Generally what would happen is the chairman or the deputy who was responsible, to whom that board reported, would call and say: "There are some vacancies coming up. We need somebody with this kind of background."

We would be looking for a specific person with those qualifications. They would say, "We need an accountant" or "We need someone with some legal background," or "We need somebody with some expertise in whatever it is." We would then restrict our searching for that candidate to somebody with that qualification. Once we got that person, then it was a matter of going through the process and passing it on to the Premier's office to make sure they were happy with it or, as it would turn out, coming to this committee. This committee, I do not think, should decide whether or not that person is really needed for that capacity. I think the question is, "Is this person suitable?" having identified that that particular skill is required.

As I said yesterday, there are lots of boards and commissions where the only criterion is that you represent the public. As long as you can stay awake at the meetings, that is generally the criterion that is used. But, as I say, each one has to be dealt with individually.

The Chair: Is there anything else? There are no further questions. Mr Campbell, we want to thank you for a very interesting and helpful contribution this morning. It is most appreciated by all members of the committee.

Mr Campbell: I thought perhaps I might give Mr Pond that reference to the Ouellette report because there was quite a lot of material there which might be of use. I can send that along to him tomorrow or the next day, if that is okay. I only have one copy with me this morning.

The Chair: If you could stay around for a few minutes following the adjournment, the clerk would like to speak to you briefly as well. Before we adjourn for lunch I just want to remind members of the subcommittee that we are going to be meeting next door for a luncheon meeting, starting at noon hour so we have time to check on the Gulf crisis before we eat. We will adjourn until 2 pm.

The committee recessed at 1143.

AFTERNOON SITTING

The committee resumed at 1409 in committee room 1.

FELIX HOLTMANN

The Chair: Our witness this afternoon is Felix Holtmann, member of Parliament, former chairman of the standing committee on government operations in the federal House and currently the chairman of the standing committee on communications and culture. Welcome, Mr Holtmann. We are pleased to have you with us. I am glad you could take time out of your schedule to be here.

I think you have a general idea of what we are trying to do with the new standing order for this committee and a broadened mandate to take a look at order-in-council appointments, to review them and make a recommendation in the Legislature. We have been discussing this for the better part of this week, and we felt it would be important to have your input as someone who has had experience at the federal level with a somewhat similar process. If you could let us know how you think the process could be refined and improved upon, the kinds of questions, perhaps, that members should or should not be asking, feel free. I will turn the floor over to you.

Mr Holtmann: Thank you very much for the invitation with regard to this particular subject. Leaving Ottawa today was a different kind of feeling than when I normally leave, with all the activity taking place.

However, the area of order-in-council appointments, as we call them, and our review of them came about, as you may or may not know, with the reform of the House of Commons by a report some couple or three years ago. We called it the McGrath report. It changed the way a lot of things have happened in our House of Commons, in our national legislative building, with respect not just to committees but to the point where we now elect the Speaker. I understand these activities are moving themselves into the provincial Legislatures.

So there is quite a bit of change going on. I was fortunate enough to be able to be part of some of that change. When it comes to committee work and the powers we in our committees in Ottawa have as opposed to what we used to have, we have come a long way, I think, in even a couple or three years. My general viewpoint on that is that it is a welcome change for me as a backbencher. I am sure there are many in this room who felt they have not contributed to government other than to make the odd speech in the chamber or vote when they are supposed to vote. It really, in my view, takes some of the partisanship away. Some great work is being provided and information offered with respect to policy.

At least in Ottawa we are finding that the chairmen of committees are not paid like the parliamentary secretaries, but the media come to them more quickly than they do to the parliamentary secretaries, because what they are offering and recommending to the House often now carries quite a bit of weight. It may be argued that this exercise is moving us closer to the US system of government. I have often spent a lot of time watching the standing committees of the Congress and the power they carry in affecting legislation and the way Congress governs, as well as the Senate. It has brought me to thinking that we have to change. Canada is sometimes slow in changing, but here we are moving in the right direction, I think. I applaud legislators like you in Ontario for trying to make that change to allow your elected representatives to have more input into the way this province is governed. Clearly, that will happen by the kind of changes you are engaging in.

On the specific matter of reviewing these appointments, it was not done until we changed with the McGrath report. Maybe we have been a little slow to pick up on it. I happen to have been the chairman, as you noted, of government operations. Some very large appointees under this new power of committees were referred to us according to the standing rules. It is a funny thing. If you look at the numbers that were referred to the committees I chaired—Mr Radford is here; you may have some discussion with him later—several hundred appointees get referred to the committee. We are under no obligation as a committee necessarily to review them, but that option is there. Generally, it is exercised when someone in the committee hears a name that everyone knows.

I think back to Dalton Camp. All of a sudden we hear the name Dalton Camp. Everybody understands that he has had some political leanings, so the committee members thought, "Well, we better have this man before the committee to review his appointment, because it's one everybody would come to hear." Yet there could be a John Doe carrying out equally as important a job, but somebody does not know him. Every committee member gets a copy of the order-in-council appointees. He looks at them and does not know the person so he does not get too excited.

I am not sure we have been able to accomplish all it was intended to yet. I can give you other examples I was involved with: Don Lander, president and chief executive officer of Canada Post Corp; or Mr Spectre, who is working with the Prime Minister. I can think of a number of others: Mr Veilleux, who is now the chairman of the CBC, or the president, Mr Watson. These all came before the committee and were recommended to be reviewed because they were big names and they earn big salaries. The committee deemed those very important to be reviewed.

So of the many hundreds who came forward, I suspect we did about 20-odd reviews over the last few years in which I was involved. We know from our standing orders that we could recommend that these individuals, men and women who are getting these posts, are not satisfactory if that were the committee's decision, but obviously it does not necessarily carry any weight. I am not sure just what you have proposed in that particular area. However, I will just give you my own impression of how the change should continue.

I believe it should be mandatory that the very highest appointments—I am talking about chief executive officers of different corporations, where certainly large salaries are involved—be reviewed by a committee before the appoint-

ment is accepted. That is number one. I say that because sometimes the committees, in their ability to act independently of interference by the elected government, may find out and bring some information forward that the government may not have known about or to which consideration was not given which may make that appointment unacceptable to the government.

I am not saying that the committee should be able to witchhunt, but as I have viewed the US structure from time to time, they have the power to reject and veto the presidential appointment. I do not know if we want to go that far, but certainly I think a committee should have the right to point out that it feels there may be a shortcoming or an inadequacy of an individual to carry out his post.

I do not know how often that may happen, but I believe there should be a designated group of individuals who are referred to committees. This province has boards that get appointed by government, and some of them are not even paid; they are just paid a per diem for days they meet. I do not think you want to get into that category. There is patronage there, but someone said to me: "What's wrong with patronage? The country has been running on it for 137 years now." Maybe we should not get too excited about that, but I think the review of individuals, of their acceptability and capability of doing a job, especially when we know some are receiving up to $200,000 a year is necessary. That is not an insignificant amount of taxpayers' money to be paying someone. Talking about the president of CBC, that is sort of his category. I do not know how many of those exist in Ontario, but there may be some pretty highly paid people.

The fact is that I think legislators like yourself and myself should have the right, in certain instances, to review these appointments, maybe sometimes just to find out what the individual will bring to his new task, what he is going to bring to the position and how he is going to make it better for the constituents we all represent, or how he is going to get it out of a loss situation. There are all kinds of reasons you want to point out which are on the record, and I do not think there is anything wrong with that.

As I say, we are probably going to recommend changes to the way we operate, because we have a body that continually looks at the way things are being conducted. Of course, in most cases, you need all-party support to make these kinds of changes in terms of how the bodies of the House of Commons and, of course, your Legislature work. I do not know what your process is; I have never been a provincial or municipal or civic legislator. I went right from pig farming to becoming a member of Parliament. I know how to handle the hogs, but you know—

The Chair: No similarities?

Mr Holtmann: Sometimes, you never know. They squeal louder.

These are important changes you people are involved with and I deem it to be very important. I hope I can learn something from the way the Ontario Legislature intends to work; maybe we can examine our ideas and adopt what works for you. You do not want to make it so cumbersome that some poor chap or lady who got appointed never gets there. I think it has to be workable, yet it has to not restrict the rights of Legislatures to review certain cases at very high levels, a person who is going to be running a certain institution.

I do not have much more to say. I am certainly open to questions. I do not know all the ways you are operating the situation, but I would be happy to respond if I can.

The Chair: I am sure there will be a lot of questions.

1420

Mr Kwinter: I am curious to get your reaction to a couple of things. I think you are right in that the tendency is that the only sort of appointees who would draw any kind of attention are either those who have a high profile of their own—you have mentioned someone like a Dalton Camp—or the position is high profile: chairman of Ontario Hydro, chairman of TVOntario, chairman of some institution that, because of its nature and because of the salary attached to it, would get some attention.

As a former cabinet minister, at every cabinet meeting there are orders in council that are approved and most of them are people who are literally not known to anybody in the cabinet room, even the Premier, who quite often used to say, "I haven't the faintest idea who these people are." But there was a system whereby they came up, and the only ones who would really attract any attention were those who, because of their personal notoriety, fame, whatever, were known—they would mean something to somebody and someone might question it—or the position was of sufficient profile.

One of the comments you made was that there should be a mandatory review of positions, not necessarily because of a high-profile person but the position. I was curious to hear you say you would review them but that you really would not have the authority to reject them, that the whole purpose was just to review it and convey to, in your case the Prime Minister's Office, I guess, that you have these concerns, but it was still up to the Prime Minister to say yes or no and that it was not the role of the committee to make that determination. Could you expand on that?

Mr Holtmann: First, as I indicated, we went a long step forward when we got the power to review, which was not there before. As I understand it, before the McGrath report standing committees never reviewed an appointment at all. Now we have the ability to review.

You are absolutely right. Most of these people take their positions and probably are on the payroll before they even come to the committee, mainly because there are recesses and there is activity to take place. I think a step forward would be that before anybody enters the workforce in one of these positions, administratively or in any other capacity—I am talking about a certain level of appointments. I am not talking about people who are put on a health board or hospital board. I am talking about very high levels which in my view should at least have a review by a committee and recommendations can go forward, unless we move it completely to the US system where the committee has the power to reject that

appointment. If anything negative is pointed out about an individual's capability or background, with respect, that would create, I suspect, a difficulty for the Premier or whoever is in charge of making these appointments, and therefore they may be reconsidered. It is a hell of a lot better doing it that way, in my view, than just having a nice little discussion to find out what the guy eats for breakfast or if he can smile and be courteous. It makes the committee act in a way like: "Well, hell, this guy or lady is going to be there anyway, so why bother?"

So I think the committee should have the right to at least recommend—as we can; we can recommend—and the House does not have to adopt that recommendation, it can ignore it. But I think you can point out some problems with an appointment in advance of his being there. We have not got that far yet. I would like to see us do it, on certain sectors or crown corporations which we have a right to review. I do not know which ones we would be talking about. That would have to be decided, I suppose, collectively, which ones you would want to consider a negative recommendation or a positive recommendation, whatever the case may be.

I can recall a couple of reviews we had on orders in council where the opposition would not recommend that the individual take the job. However, there was no report anyway. It is just that we had a review. Of course, the media picked it up; it is open in a public review. Some of these things get reported, and I suppose maybe there was a little red on some people's faces.

Other than that—that is a perception thing that happens—I would like to see that on certain levels, like the ones I suggested, chairman of Canada Post Corp or the CBC, I would like to see, before they get there, that it be given as an order-in-council consideration for appointments for the committee to consider. I think that would make it far more valid.

The idea of whether you are going to say no and it has to be honoured is another question. I do not know if we will be able to take it that far. Maybe if you try it in Ontario and it works, I will bring that back to Ottawa, but I have some doubt that the Privy Council that operates the government would want to have that kind of a restriction on it. I do not know what the feeling is. If you had been a cabinet minister who sat on the other side at one time, you might have an opinion on that.

Mr Kwinter: If I can just follow up on that, one of the problems you have under our parliamentary system is that the only thing that gives the Prime Minister or the Premier his real power within his caucus is the old cliché that he has the power to appoint and to disappoint. That is what gives him his power. He sits down at the cabinet table and he is the one guy by law that can make someone a cabinet minister or not, so effectively he is the 51% shareholder.

As a result, you can really get into a cabinet meeting, there is not a consensus, there is not a vote, it is that kind of a collegial responsibility, but in the final determination, if you are in a cabinet of 30 people and every single person has an opinion that is different from the Premier's or the Prime Minister's and if the Prime Minister or the Premier wants to prevail, he prevails. It is not the matter of a vote. He decides, "That's fine, I've heard all you guys. This is what we're doing. If you don't like it, too bad," because, by statute, he has the power to appoint, which means that everybody who serves in cabinet serves at his pleasure. That is what gives him his power.

The concern that I have is if there is a committee, whether it be at a provincial or a federal level—let's say in your committee—and an appointment is forwarded to you for review and the committee unanimously recommends that this person should not be appointed and the Prime Minister says, "Thank you very much. He is appointed," what do you do as a committee? How does the committee function after that?

It could happen at the provincial level, where he said: "Look, I don't care what you guys say, I'm making this appointment. It's my choice, I have the right to do it and I'm making it. I'm prepared to take my chances out there, but that's it." Then you really get to the point where the committee looks at itself and says: "What are we doing here? Why are we going through this exercise? Is this just a make-work program?"

Mr Bradley: Do you want an answer to that?

Mr Kwinter: No, this is the concern I have.

Mr Holtmann: Let me just follow up, because I think you do bring out a point. Let's take a John Doe who has this appointment by the Prime Minister and it is found out by somebody who knows that this guy has not paid his bills with regard to some personal matter and he is being taken to court and so on. It could be something to that effect, yet he is going to be given a trust position. That may not be a criminal element until he is proven guilty, but if that be pointed out and the Prime Minister still wants to go ahead with the appointment, obviously he would want to make sure he checked out a fact that he might not otherwise have.

That might not be the best example, but there may be somebody with a security risk background, there may be something that was brought out. Obviously if the committee recommends that he not be appointed, there must be, I would think, a reason given, not just because we did not like the way he parted his hair. I cannot imagine a committee giving a no recommendation without some evidence that it was able to find to substantiate its recommendation. Should the Prime Minister or the Premier still go ahead, then obviously he would likely come under some criticism by the public. That he would have to live with, I suppose.

1430

Things like that would be the way I think it could operate. Sure, he is the ultimate power in appointing somebody, unless you want to put a veto in. I do not know if it needs to be unanimous, if it is like a court of law where you need to have all the jury's unanimous support to convict somebody or to make him innocent or guilty, that kind of an arrangement. I do not think you really want to go to that extent, but I clearly think that reasons would have to be given if a rejection is coming forward.

Let's face it, we are all on one side of politics here and we will play them out sometimes. Mr Pawley could be appointed by your present Premier to some post. It could

happen. He might have to come before a committee. My goodness, you might argue that he could not run a province or something like that, and the other says, "But he is a very honourable man." You are going to, all of a sudden, have biased opinions of the guy and will not look at whether he can or cannot do the job.

I think you have to be a little bit careful in deciding whether a person may or may not be deemed acceptable to a committee, but if that happens, I think you are going to have to give your reasons and if they are unanimous—I can tell you, we have had people before our committee where we had unanimously accepted their position and I think that is helpful too.

If a person can come and say, "I am going to be taking $200,000 worth of your money to operate this and this is the way I intend to operate it," it gives a comfort level to people in the committee. In some of these organizations it is not such blatant politics which we sometimes have. We hope it never happens, but I think we are all human.

It is an answer that we are still groping for. I do not know quite how to designate, first of all, who would be the ones that we should mandatorily review. But I also think it would not be a lot. They do not occur because sometimes these appointments are, at least in the federal government, from five to nine or 10 years, or seven years. I think they may be three-year, five-year, seven-year and 10-year appointments; maybe not 10, but nine. I am not certain now of all the categories, but it would not include a whole lot. They would not be that often, only as they come forward or decide to resign, whatever the case may be.

I think there is an area we could move in and also I would like to see the review before the individuals, especially in these categories, take the job. Then it really becomes academic. A guy is in there, he is getting his pay. We had that situation in fact with Mr Watson, the chairman of the CBC. He had a position and we reviewed the position, but the legislation was not even through in the House to officially make him the chair. It was really weird, yet I am sure he was earning his pay and so on. It was really quite different.

I only point out there are some things here but I would like to see that change taken forward. I do not know what other chairmen of committee in the House of Commons feel or what ministers feel, but I would think that is our next recommendation, something in that line.

Mr Sutherland: You mentioned earlier about the committee looking at information that might not have been available to the cabinet minister or the Prime Minister's Office when they are recommending that. I am wondering how you control that process. You suggested we did not want to go to the American system. How do you control or assess the information coming forward that maybe this person, from the example you said, has not paid his bills or some other problem without getting into the kind of personal mud-slinging that seems to occur at certain times in the Senate hearing process in the United States. I am just wondering how that is balanced off to decide whether the information is valid or not, that there are some problems with this person's appointment.

Mr Holtmann: Obviously, there may be instances where that might be difficult. I can only cite a person who was seeking a nomination once in this city to run for a federal party. I would not believe it, but it ended up that the individual claimed to have been a professor at universities and taught at this school and that school. If you had read what he was writing and if he was being appointed on the basis of information he gave, only to find all that information to be inaccurate, if somebody knew a person was going to take high office and knew he may have misled the Premier or the cabinet in terms of his capabilities and that was found out, clearly that is enough evidence to point out that they may want to reconsider. Sure, there is a personal consideration here and you want to be careful not to wrongly accuse somebody.

The other area of concern is whether the man or woman who takes the job has the necessary qualifications. There may be some evidence brought forward that in fact the person does not. It is better to bring it out before that person takes the job than after, I would think.

These are only a couple of areas. What about conflict of interest? I think, once again, you appoint people to take positions. Have they been thoroughly reviewed with respect to conflict of interest? We know all too well the number of ministers who get into trouble provincially and federally because of conflict of interest and lose their positions.

You would think if the cabinet and the Premier and the Prime Minister make sure that the people they appoint to become ministers, if they check that out—obviously they have not checked very well, if you look through the last 20 years at the number of ministers who have had conflicts of interest and have had to lose their jobs. Maybe the committees should have looked at the appointment of ministers as well. I only point that out to you because it is not a rarity or the odd case. It is quite prominent, is it not? These are areas that I think committee members might want to consider.

Mr Sutherland: One other question I want to pick up on relates to the point that Mr Kwinter made about pressures, whether they be from the Premier's office and the Premier appointing cabinet ministers or from the Prime Minister's Office. I am wondering what suggestions you would have for this committee in terms of ensuring that the public—you mentioned the taxpayers' money when they are making $200,000 a year—has faith in the process.

Ultimately we are the servants of the public, but I suppose from Mr Kwinter's example and with you being part of the government side now and us being part of the government side, you are servants to two people: as a cabinet minister, to the public and, as he mentioned, to the Premier or the Prime Minister. I am wondering how the public can have faith in that process. Should the public have faith in the process you have, and based on what you have maybe been informed as to what is going to go on here, should the public have faith in this process provincially?

Mr Holtmann: In terms of making sure that the public is aware of the process, first of all, I think it is

incumbent upon the government in reviewing these appointments or these nominees to inform them that they are going to be reviewed and by whom and they are open to anybody who wants to sit in. I think they should be publicized, because they obviously are going to hold an office or a position paid by the taxpayer in many cases. Once again, I think Mr Kwinter mentioned the fact that it is that prominent name that gets the nominee that the public has an interest in, more so than the person that may not be known that well, although he may hold a more important position.

I think the fact that you as legislators indicate that you have reviewed, that you can put it in your correspondence to your constituents and the government can indicate in many ways that it has reviewed these appointments by all parties, gives a level of comfort to the public, to our electorate that we are in fact doing our job as legislators and taking an interest in all things that happen within government bodies.

1440

It is a communications exercise that often we, as members of Parliament, do not get involved enough in. Then all of a sudden when something breaks out, that is when we hear the negative parts of it. I think it is important that this exercise be carried out and that the information be told to the Canadian public, whichever method is used, because hell, they elected you to come down here and me to go to Ottawa to represent their views and there is more to it than just standing in the Legislature to make a speech once in a while. You had better well tell them; otherwise they think you are doing nothing down here. I hope that answers your question.

Mr Silipo: There are a couple of areas I wanted to ask you about. The first is that in talking about the kinds of things that your committee can do at the end of the review, I got the impression—I just want to be clear that I understood correctly—that you do not have the right to make any kind of recommendation at the end of that process.

Mr Holtmann: We have the right even to reject, but there is no obligation on behalf of the government.

Mr Silipo: Right, so that is similar to the powers that we have been given.

Mr Holtmann: I think that is similar.

Mr Silipo: In your experience to date, have you been in situations where in fact the committee has rejected or has recommended against a particular appointment?

Mr Holtmann: It seems peculiar, but I think all those that have come before me have basically got full approval, except for one. Obviously we do not make a report if there is no recommendation to the government. We had Mr Veilleux come before the committee and there was no suggestion that his order in council not be honoured, so we did not make the report. I believe we only made one report. Is that correct, Norm? Did we make one report with respect to an appointment? I am just not certain. I believe we have had some considerations with respect to appointment.

Here, for example, is a report that we gave with respect to Keith Spicer. I am sure you all know that the chairman of CRTC has now left his post again. I will have to find out if we should review the guy who took over from him. I do not know if we liked him any better.

For example: "Your committee has considered the order-in-council appointment of Keith Spicer, chairman and full-time member of the Canadian Radio-Television and Telecommunications Commission, referred to the committee on Monday 25 September...John Pennefather, government film commissioner, referred to the committee Tuesday October...Gérard Veilleux, Patrick Watson, referred to the committee. Your committee examined the qualifications of these persons and finds them competent to perform the duties of their posts."

I suppose we did not even have to do that. My point was this, though, we did and I wanted the public to know we did. I think that is important. Obviously, if some members of the committee rejected that appointment, we would have maybe still reported and said it was not a unanimous report, which I think we have had as well.

I am just saying that we have not in fact rejected anyone, but we are just moving into this area and we have not gone fully. Here is another example. These are some minutes from our Hansard from our committee, I believe.

"Mr Boudria proposed to move that pursuant to provisional orders 103 and 104, the committee having examined the qualifications and competence of Mr Dalton Camp, the committee having concluded that the appointment of Dalton Camp was a partisan political manoeuvre"—not anything that ever happens around here, I am sure—"by the Governor in Council and that the effect of this appointment would be to politicize the Privy Council office thereby creating an unwanted precedent, this committee respectfully recommend that this appointment be cancelled forthwith."

I, the chairman, ruled the motion out of order on the grounds that it went beyond the scope of the committee's order of reference. So you see, if you want to put your order of reference in what you are proposing to do, then you would not be able to rule it out of order.

Mr Bradley: Hear, hear.

Mr Holtmann: We have some examples here, but once again, all these individuals I referred to and others whom we reviewed were at their posts already and that, with all due respect, I think is the wrong way of going about it.

Mr Silipo: That is fortunately one thing that is different here because we will be asked to review appointments prior to the people taking the appointments.

The other area I wanted to have your comments on, and we were talking about this in our subcommittee earlier today a little bit, is in the whole area of the nature of the kinds of questions one would ask of the people we had decided to review. My attitude, as I indicated to my colleagues in the subcommittee, was that I certainly did not expect we would ever all, as a committee, be able to agree on the nature of the questions we would ask, but it seemed to me that there would be some value in at least being aware as opposed to trying to guess, although we could probably guess relatively accurately at the nature of the

kinds of questions that we might want to ask from the different perspectives.

Could you share with us any of the experiences of your committee on that whole area of the nature of the questions? One sort of specific, obvious question I know that members opposite will be quite interested in asking is the political affiliation. Again, my attitude so far to that has been that while I am not sure it is that relevant, in the end, if people want to ask it, they are going to ask it and so what is the big deal?

Mr Holtmann: Let them ask it.

Mr Silipo: I just thought you could comment on that, but on any other issues in terms of the whole question of the range of questions that your committee would ask.

Mr Holtmann: I think it is at this point that the chairman has to start acting a little bit like a judge under what I think could be a very sensitive review of a person's capability, integrity and so on. The judgement call would then, in my view, have to be the chairman's on appropriateness of a member's question to an appointee; obviously that could be challenged, at least in our committees, the ruling of a chairman, but I think, basically, where nobody is out to be on some kind of a witchhunt, I think we all have to realize that your question is very important because you want to establish the credibility and the credentials of an individual to do this job and I think, all being honourable men and women, we want to make sure that it does not get to be that kind of an ugly witchhunt which could slander an individual.

So the chairman gets to sometimes evaluate the appropriateness of one's question and that is a judgement call. With all due respect, it is a judgement call. I have watched the American system quite closely. We, fortunately, back in Ottawa can pick up Cable-Satellite Public Affairs Network and catch some of these live committee hearings, and I have listened for hours to the kinds of questions they would put to an individual in his desire to have his appointment accepted. I will tell you, they get pretty deeply into an individual's background and it is conducted very much as a High Court.

I think I have never had too deep a discussion of an individual. I have had some, but so far it has not gotten too personal. Now, this may happen and I do not know how I would deal with it on an occasion, other than that the chairman is to conduct it and judge the appropriateness of questions and that is really all I can answer at this time. You have to remember, all these things are being reported. You can pretend sometimes to hide under the immunity of your Legislative Assembly and for us the House of Commons, but one certainly has to be a little bit careful, I would think.

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Mr Wiseman: Basically, how much time would your committee have spent examining each of the candidates?

Mr Holtmann: I would suspect that we have not spent more than two hours on a review of an order in council at the most of any one particular candidate. Quite often, advance notice by a good week is given to all members of the intent of the committee to review. Every party has its research department, which wastes no time in digging up information pertinent to the particular subject. But I do not think I have ever gone beyond two hours with a review, and generally all the questions that could be put would come in a two-hour period, I would think.

Mr Wiseman: Do you have a time limit or would you just have an open-ended hearing?

Mr Holtmann: Our orders put time limits on meetings and can only get changed with unanimous consent. That way all kinds of dilatory motions do not interfere with what the intent of that meeting was, and that is the way I like to rule it. It is very effective because we have a meeting under a standing order to review an order in council. I am not going to conduct a meeting that says, "Let's talk about firing the guy at the CBC," and move that motion. You cannot do that with us unless we have unanimous consent to go beyond that time or unless we have unanimous consent to introduce a new subject for that particular meeting. That is how I manage to keep it running pretty clean.

Mr Wiseman: In your sense of having reviewed some of these candidates already, have you had a sense that perhaps the whole process has been enhanced in terms of having a better candidate or maybe a less partial or less partisan candidate, or are there still a lot of the old games played?

Mr Holtmann: I do not have the sense that as a result of the administration or the Prime Minister's knowing that some of these appointees will be reviewed, he will select somebody differently. I do not have that sense, but I have a sense that the individuals who are receiving these appointments have to explain themselves and what they are going to bring to their new positions to members of Parliament and members of your Legislature. For some of them that is even a difficult task and you wonder why. I can tell you it would surprise you how people are so willing to take a position, but when they are asked by government people like you and me, you wonder whether they should have come to take that position. So I can only say that it is a healthy exercise and you sure get a comfort zone from somebody who comes in there and seems to know the nuts and bolts of what he is doing as opposed to after it has happened, because the public also hears his response and says: "Why would he have been running that show? Why would they ever have appointed him?"

So as we move more into this, I think the questions will become more intelligent and the desire for the right answers will be there. Clearly, it might, by the people who are making decisions to appoint people say, "You had better put somebody in there who is going to be able to do the job and demonstrate he could do the job, because he will be an embarrassment to us." So there might be that in the background, but I cannot think that a Premier or a Prime Minister would not want to appoint somebody to do the very best job possible. This is just another check and balance in the system.

Mr Bradley: Sir, would you not agree—I guess it is a leading question when I say, "Wouldn't you agree"—

Mr Holtmann: I might not.

Mr Bradley: —but I will put it that way and you might not agree. Would you not agree that if this exercise generically is to be meaningful and not simply window dressing or the appearance of some significant change, that you have to have three things?

First of all, you have to have the ability to review more than one nominee before a selection is made for senior positions. I am not referring to 5,000, because practically you cannot do it. Second, you do not restrict the questions that members of committee can ask. Third, you have to have the ability to reject the nominee. Would you not require those three before you could really have a meaningful exercise and something other than window dressing and the appearance of change?

Mr Holtmann: The restriction of the question, let me talk about that one first. Obviously, I do not agree that you could have an open-ended question to a nominee, unrestricted. With all due respect, I think that would be very unfair. A man's or woman's personal life could enter into this and I do not know that you would want to allow that kind of questioning, because it may be totally irrelevant. Unless you can prove the relevance, I suggest that you just could not have that take place at a level of deciding the competence of an individual, so I would be careful about the unrestricted questioning.

With respect to, if I understand your question correctly, whether to give it some credence and not just rubber-stamp the whole thing through, as I say, I do not know about two candidates, because obviously your Premier has somebody in mind for a position; he likely does not have two people in mind for a position. What you are then suggesting is that you are going to decide between the two. I did not think you guys and I were going to become an employment agency, you know, to decide which of the two is best qualified.

I do not think that is really what the intent of our reviews—and maybe yours—should be. I think we take the appointment given and we may want to find out reasons why it should not be, as opposed to trying to decide who is better between the two. As I said earlier, in my view we have to move it the next step, review it before it is a fait accompli. That is what I would like to see. If the Prime Minister still wants to go ahead, he does so knowing that some things have been brought out. If something happens down the road, we can say, "I told you so," I suppose. You see what I mean? But at least you were there.

I suppose you may have those situations. I do not know what particular agencies and groups you will be reviewing. I heard that a former MLA from the province of Manitoba could be eligible, I suppose, to look after your auto insurance program, for example. I do not know if something like that would ever come up for review. Who knows?

The Chair: What is his name?

Mr Grandmaître: Not a bad idea.

Mr Holtmann: But one could say, "Is he qualified?" He may be very qualified.

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Mr Holtmann: All I am saying is, you do not want to start deciding A or B. I think you want to take the appointment and if there is some objection or if there are some problems with it, you may want to point them out and you want to recommend that to the government. But I think it should be before and I think we agree pretty well, if I understand people, that that would be the desirable way for us to move, especially in those categories where collectively all parties think it has the importance of that kind of review.

There are so many appointments, it is amazing the appointments that take place. There is an arts board that decides—and they are appointed—whether a picture is good or bad.

Mr Sutherland: Is that board being changed now?

Mr Holtmann: That is right.

Mr Bradley: The third part was the ability to reject the appointment and have the rejection stick.

Mr Silipo: Veto.

Mr Holtmann: That is a big power a committee would then have and I think it may tend to be chaotic, because on what basis are you talking about the rejection? What per cent—the same vote of yeas and nays on your committee—would cause a rejection? Is it a lot of questions or does it need unanimous support to be rejected? What is the thinking behind it?

Mr Bradley: The way we would do most things around committees is that the majority in the committee rules.

Mr Stockwell: Kind of democratically.

Mr Holtmann: It seems to me you are suggesting then that the governing party, which usually has the biggest percentage of people on a committee—at least they do in Ottawa except for a few, I do not know about this one.

Mr Bradley: They do have.

Mr Holtmann: Obviously one would have to break ranks I suppose.

Mr Bradley: That is right, you always have to hope for one renegade if that is going to happen, and that does happen occasionally.

Mr Silipo: Or common sense, Mr Grandmaître says.

Mr Bradley: Those who are not aspiring to the cabinet, on the way out or something.

Mr Holtmann: Let me tell you something. I sat in committees in Ottawa and it happens quite often that governing party members break ranks on committees.

Mr Bradley: I guess the point I am making is not so much a quarrel with what governments do as really trying to set what you do and what this committee does in the proper context. To be a powerful committee, to really have the right to review, it seems to me that you would have to have the three that I gave you. When I say totally unrestricted, I suppose that is an exaggeration.

If you want to control this committee, your committee or this committee, there are three things you do. First of all, you control the fact that they cannot veto; you do not let them veto, so that is one control. Second, you let them deal with only the nominee the government has; therefore

you can only deal with that person. Third, and a clever person who has been the chairman of something at some time or other would know this, if you can control the questions that are being asked, of course you can control what is happening in a committee.

Under those three conditions, it really is a very little change but there is an appearance of change—and some good editorials and lots of nice things in constituency newsletters—but the real change is not there unless you give the committee those three powers. I am not suggesting offhand that they should necessarily have that power, but that would be real change.

The Chair: Another difference in this committee versus the federal committee, and time will tell whether it is a significant difference or not, is the fact that this committee is chaired by a member of an opposition party, whereas on the federal level it is a government member.

Mr Holtmann: Yes, that did not go unnoticed by me. Of course, you were set up and structured to do these reviews, all the reviews that are associated with the government. Is that correct? Or would any other committee review an appointee?

The Chair: Not an appointee, no.

Mr Holtmann: So, basically this committee is struck with that task. In a way, I think it is quite clever to have an opposition member chairing this committee because it does it all—and I am thinking about this collectively; I think it may have some merit—where we are a standing committee. For example, presently I chair communications and culture, and all those appointees associated with those departments, and there are many, come before our committee. But you are quite unique and I would be interested in following this, how you will in fact live with this particular methodology, and it might be something we want to look at.

Mr Stockwell: I think I would like to question the committee you work within in Ottawa. I believe in examining committees. We often strike committees locally, municipally, provincially, federally, and they tend to go on for ever. No one ever examines whether in fact we need them any more.

I look at your committee now. You have been in operation three years, you suggest. If one were cynical and looking at this committee with a cynical view, not being that kind of individual, but suggesting that if you were cynical, you would look at this committee and say it has been established now for three years and you have rejected no one; you have only interviewed people who are in the job in the first place. So in fact they are doing the job when you are doing your review. No one has been rejected, and frankly, you do not think the Prime Minister or whoever makes those decisions really changes their attitudes about whether or not they would appoint somebody.

If you were cynical, you would probably say: "Jeez, here's a committee that's taken up a lot of time, spending a lot of taxpayers' money and it hasn't rejected a soul; nothing's changed there. The chairman of the committee does not think anyone is being appointed differently than before, and even when they interview somebody, the guy's already doing the job that they're interviewing him on, as to whether or not he's qualified to do the job."

How long do you think you would continue on with this committee: six years, seven years, 10 years, or is it for ever? Is this just the state of affairs in politics? Do you really think much is being accomplished, considering those three very important facts? I will repeat them again: No one is rejected, everyone is doing the job that you are interviewing about, and you do not really think anyone has changed his mind with respect to appointing anybody.

Mr Holtmann: I think those are really important questions. Let me deal with one you talked about, not as a third point but you talked about it costing a lot of money. I am concerned about the money we spend in government, and you are right, it does cost a lot of money. But let me put it to you in this way. I was very sceptical about it. I am going to continue to support the venture because we, as Canadians, are very slow to change our institutions and make them better. We are so damned hung up on tradition sometimes and it has finally come around where we have made a change.

Like I said at the outset, we never used to even consider an appointment. Now we are reviewing and exposing the man's capability, the woman's ability to do her job, knowing that we do not have the power to say no. But I suspect that if we stick with it, there will come a time—I think we are changing finally—to where we will have that, or at least move to the next step, and as you are attempting to do, review these appointments before the Prime Minister finalizes them. I think those are bringing us into a position where, after he has heard and reviewed the committee's review, maybe there will be some reconsideration as to who gets appointed. I think that is moving in the right direction. I would not want to stop the process now.

Maybe in approximately another six years—and heaven forbid, I hope I am not there that long—let me tell you that maybe nothing will change and one should review whether it is worth it. I agree. But I do not think in three years we have given it much time, considering how long we went without ever reviewing an appointment.

Let me tell you something: it is good for the committees to get to know who is running some of our corporations or bodies that play an important role in our lives, because in almost all cases, at least in the federal system, I can bring Mr Veilleux back in front of a committee any darned time I want to, or Mr Watson or Mr Spicer. I can bring him back and I can say to him or members of Parliament can say to him, "I don't think you're doing your job."

That is, in my view, a pretty important move that committees have the right to take and that never existed before. Committees, if you read the McGrath commission, have the destinies of their own operations; they decide, as long as it meets a certain sector of the standing orders. That, to me, gives members of Parliament a lot of power, not that they can say, "You must go,"but they can ask the questions and get to the bottom of a problem, as we have been doing in Ottawa these days. I do not know if you have noticed.

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In Ottawa, people are appointed by the Prime Minister. I have no problem in asking Mr Veilleux how he is operating the CBC. That is a powerful tool today, a committee which was not there before. He was appointed and his appointment was reviewed, albeit not rejected. It had no power of rejection, but it was reviewed, albeit after the fact, which I would like to change.

I am not pessimistic that we already have hit a dead end. On the other hand, I think we have demonstrated that some of our reviews—you just cannot do them all. That is the other side of the issue. How many orders in council were there? A committee cannot sit down and review 1,000 appointments. I mean, that is really wasting time. You have to look at ones that are really important or at a high level of the pay scale or are of importance in the views of the government or the opposition or whoever makes decisions. I think you have every right to question these people. They are the servants of all of us.

I think that is the best answer I can give to you. I am not prepared to give up on the system, because it has moved quite rapidly. If you look at what has happened in the last 100 years, this is a pretty big move.

Mr Kwinter: On a point of information: I am a substitute on this committee and I have not really looked at the mandate. Does this committee have the mandate to do the kinds of things that were just explained, to actually call in people and review them?

The Chair: We have the option in terms of the other part, the other side of our mandate, if you will, to review agencies, boards and commissions. As part of that we certainly can ask the chairman of that ABC to appear before us, but to go after another, say a lesser light, if you will, on the committee, I do not think we have that authority.

Mr Holtmann: I do not think I could say I can bring back any order-in-council appointment, but anybody who heads up a corporation that is under the purview of communications and culture—whether it is Telefilm—the chairman and the president, the chief executive officers of those corporations can be called before the committees at any time it is deemed important enough to the committee. That is what was not there before the McGrath commission report. That is a lot of power when you think of it. It is a lot of power to the individual member of Parliament who now has the right to question.

Mr Frankford: In your reviewing appointees, would you question people about their philosophy or would people bring up their philosophy of what the agency should be doing? You mentioned art, for one thing, but one could think of many things such as, with the CBC, whether it should be profit oriented or otherwise. Is that the sort of thing that is appropriate?

Mr Holtmann: Absolutely. I do not have Hansards from some of the appointments we have reviewed, but I find very often that the members of Parliament really want to know what an individual thinks and feels with respect to the position he is going to take and what he is going to bring to it and what his thesis is with respect to that portfolio. Yes, that very much seems to be the first question.

I can remember some of them so well. I remember Mr Spicer's appointment to the CRTC. He was a journalist and one who was fairly renowned in the media field. How his background would apply now to a body that has a tremendous amount of power in regulating the communications of this country, I can recall, I think, his responses and his ability to respond and understand that particular position was a very impressive response to the committee. Those are the kinds of questions that members ask.

Mr Frankford: Would you see committees going as far as rejecting people?

Mr Holtmann: I do not have the feeling other than the one, I think, by Mr Boudria suggesting that Mr Camp was only there to politicize the Privy Council and therefore his motives were totally wrong to be there. Obviously that was not acceptable.

Ms Haslam: Would you not agree—

Mr Holtmann: I will try.

Ms Haslam: —that a couple of the benefits of doing it in this way are public access in the scrutiny of this process, and the fact that we are able to go into a little more depth in the criteria of the expertise, the experience and the qualifications of the candidate?

Mr Holtmann: You are absolutely right. It seems to me all too often we forget about the qualifications and we wonder if the person has been appointed sometimes because of politics. It always comes around. Everybody has every right to have political motives and leanings, but that does not necessarily make them good managers or necessarily make them able to run some of our big corporations. That, I suppose, is the committee's biggest mandate, if they can, through their questioning, find out whether the individual is very capable of doing his job.

But it is hard to sit back in judgement on somebody to do the job unless you know the job as well as he should, because how can you question him? It is pretty hard to question if somebody can be a rocket scientist if you do not even know what the hell a rocket scientist has to do. I guess there is the background that obviously would have been looked at, the academic background and the arithmetic of the individual before he was considered. I would hope that was all done. There might be some minimum standards to hold a posting that you would think the committee should not have to review, that it was done by the people who were appointing the individual.

Other than that, I tend to agree that we have to find out, or we have now the ability to look at whether a person is suitable for the job. It is not always just cut and dried, is it? There are things that members may or may not know about somebody that might be pertinent to his position.

The Chair: When you have someone appear before you, the only materials you have, really, are those that have been supplied by the government, perhaps a résumé and some indication of what the job is all about and what the agency that he or she is responsible for is all about. The committee research staff does not get involved in taking

perhaps a more in-depth look at some of the issues confronting this person, some things he may have said that are on the record that could be controversial or something about his or her background. You do not have that sort of capability.

Mr Holtmann: That is true. It is pretty hard to investigate somebody's background other than if he happened to be a public figure before. The case that I think of all so often—it might be really of interest to this committee if you review it—is that the Prime Minister appointed Stephen Lewis as our ambassador to the United Nations. I do not know if we even did a review of that. I do not think the McGrath commission was in at that time. It was before that. It would seem to me that an appointment of that nature would have been a most interesting review.

The Chair: I agree.

Mr Holtmann: After the fact, of course, knowing what took place. Of course, that is the prerogative of the Prime Minister, as we know, the prerogative of the Premier, to appoint different people. Nevertheless there is a case where one might argue, "What philosophy"—you talked about a philosophy—"are you going to bring and is it going to be the one that the government of Canada represents?" That sort of questioning would probably have been most interesting. So I think we had better keep the reviews around so far.

The Chair: It would have been interesting to know who contacted him about the job too.

Mr Holtmann: That would not come before me. That would come before the Department of External Affairs for the standing committee to review.

The Chair: You obviously do not have the ability to bring in outside witnesses. Is there any avenue available if someone has a concern about a particular appointee? Is there any way that can be brought to the attention of the committee?

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The Chair: Obviously you do not have the ability to bring in outside witnesses. If someone has a concern about a particular appointee, is there any way that can be brought to the attention of the committee?

Mr Holtmann: I believe we have the right to do that. The committee, I believe, can bring anybody before it that it wants to, and it can subpoena whomever it wants to. So yes, we could. In my view, in considering somebody else's appointment we could bring in a witness to give testimony about it. Tell me if I am wrong.

Mr Radford: I think you are right. It has never been done.

Mr Holtmann: That is the power we have.

Mr Radford: Under 110, yes.

Mr Holtmann: I believe so.

The Chair: You do not look at reappointments, I gather, if somebody has been appointed for a given period of time. Do you have the ability to look at reappointments if you wished to do so?

Mr Holtmann: I have not seen too many reappointments in the three years we have had this ability. There may have been some.

The Chair: I was just curious if you had the ability.

Mr Holtmann: I suspect we could.

Mr Sutherland: If I could just pick up on your point about whether you bring outside witnesses in, you commented that you have the power but you have not done that. I wonder what your recommendation would be about that as an acceptable practice.

Mr Holtmann: I am in new territory here now because we have not done it and I have had no urgings to do it. We have the ability, but I have already told you that. You are asking me, should you incorporate such provision.

Mr Sutherland: I am asking you whether we should or should not, from your point of view, as to what the process has said and what you have said.

Mr Holtmann: I do not think so. I really do not think so, because it is then starting to become too much of almost a judicial body of activity and I really do not think there ought to be a need for it. I indicate we do have the right because of the independence the committees now have in the House of Commons, but it is not one that I think would be exercised very easily.

Mr Perruzza: Could this committee conceivably move into a closed-door session where you do not have Hansard and ask the kinds of questions that perhaps everybody around this table is thinking of? Is that a practice for legislative committees or not? Everything is open book?

The Chair: Oh, no. There are occasions, if there is a feeling of the majority of the committee that we wish to move in camera, we can do that through a simple motion. I think for the most part we try to keep our meetings as open as possible, but there may be areas that a majority, if not all, of the committee feel are extremely sensitive and should be done in camera. That option is there for the committee.

Mr Perruzza: Is it your feeling that people would want to ask appointees questions that would be beyond the realm of what would be a normal interview? We have all interviewed or have been interviewed for jobs. Do you find that is the case?

Mr Holtmann: Let me say that it is not normal that people will get into those sensitive areas. But I can assure you that it could happen, and it likely will happen unless you have some restrictions. I think it is back to the call of the Chair. The in-camera question that was decided is an option that you might want to exercise even in the review. As a matter of fact, if there is a suggestion that some of this may be very sensitive, the interviewer may ask to be questioned in an in-camera manner and indicate why. I think that is something you might want to consider.

Everybody has backgrounds that sometimes they might want to be kept private, for whatever reason, and they may not want to answer questions. I guess the answer is, "No answer, no comment," whatever the case may be. You will deal with them from time to time, but all I am saying is

that I do not think anyone is out on a witchhunt as much as he is to try to determine whether a person has the ability to carry out the task he is being assigned to do.

The Chair: I guess that concludes the questioning. We very much appreciate your appearance here today. It is going to help us in our ongoing deliberations when we get into this in about two weeks. It is very helpful indeed. Once again, thanks on behalf of the committee.

Mr Holtmann: Nice to be with you. Good luck.

The Chair: As a final part of the committee business today, I would like to report on the subcommittee meeting that took place during the lunch break. One element of that is not incorporated in the official report and that is the discussion of the kinds of questions that we might be faced with. The members of all three parties agreed that prior to getting into our first discussions with some of the prospective appointees, we will try to devote half an hour or one hour to discussion within the committee of the kinds of questions that we might be looking at, not that we are going to reach perhaps any consensus, but at least we will have some sort of understanding within the committee of the sorts of things that will be discussed and the kinds of questions that will be raised.

The subcommittee report, and this is in clerkese, as I guess you can describe it: "Your subcommittee on committee business met this day pursuant to paragraph 2 of standing order 104(g). Notwithstanding paragraph 3 of standing order 104(g), your subcommittee reviewed a list of intended appointees referred—"

Mr Grandmaître: Do you all understand that?

The Chair: We will translate this after—"a list of intended appointees referred to the committee on this day. Pursuant to paragraph 9 of standing order 104(g), the subcommittee advises that it waives its right to committee review of the following intended appointees to the council of the Royal College of Dental Surgeons: Ms Solette Gelberg and Richard J. Cowan."

I can explain that for the benefit of members of the committee. This was a request from the government and through Mr Silipo that there was some urgency to these appointments going through and the fact that the Royal College of Dental Surgeons was unable to carry on business this month unless these appointments were approved rather expeditiously. So the subcommittee decided unanimously to waive its right for review on those two appointments.

There were—I cannot recall the exact number—a handful of other recommended appointees which we have—the Education Relations Commission, the College Relations Commission, Workers' Compensation Appeals Tribunal—and we have decided to carry those over until next week when we are going to have another handful of recommendations from the cabinet. We will be able to decide at that time. The subcommittee will be meeting again next Thursday, following the Wednesday cabinet meeting, and we will be coming back to the committee with some recommendations following that subcommittee meeting.

Mr Silipo: Just to add for the record, I think it would be useful that the information that we also had before the subcommittee indicated that in the two appointments that we are recommending we waive our right to review and that it is also a situation in which the minister is appointing people who were recommended through the council of—I forget the full name of the council but the council to which the people are being appointed.

The Chair: The council of the Royal College of Dental Surgeons.

Mr Silipo: That is right, yes. So I think it is also useful to just put that on the record as well, that this was also part of our discussion.

The Chair: Any questions on the subcommittee report?

Mr Stockwell: I think it is a great report.

The Chair: No bias there. I think all members of the committee understand that it is deemed to be adopted. Okay, we do not require a motion. Anything further before we adjourn for the week?

Mr Kwinter: Yes, I want to say how much I enjoyed participating.

Ms Haslam: I would like to say how much I have enjoyed having you here. I find you a wealth of information. It has been very interesting listening to all your comments and information.

The Chair: I enjoyed your contribution, Mr Kwinter, very much.

Mr Kwinter: I enjoyed being here and maybe I will come back again sometimes.

The Chair: We will meet at 2 o'clock on Monday.

The meeting adjourned at 1532.

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Standing committee on government agencies

Agency review:
Ontario Municipal Board

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Chair: Robert W. Runciman
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Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mardi 22 janvier 1991

Comité permanent des organismes

Examen des organismes gouvernementaux:
Commission des affaires municipales de l'Ontario

Président : Robert W. Runciman
Greffier : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 22 January 1991

The committee met at 1009 in committee room 1.

AGENCY REVIEW

Consideration of the operations of certain agencies, boards and commissions.

ONTARIO MUNICIPAL BOARD

The Chair: Come to order, please. We welcome our witnesses, John Kruger, chairman of the Ontario Municipal Board, and Anna Fraser, who is a member of the board. Perhaps, Mr Kruger, you could identify the other member.

Mr Kruger: That is Doug Colbourne, who is the vice-chair of the board. We have one other member, who must be tied up on a hearing and who may be a little bit late. It is just the normal hazard of the board. That is Peter Howden. He was to be here. He has not yet arrived.

The Chair: We were talking about this yesterday, about the length of opening statements. We are going to try and accept a norm of 10 minutes, but Mr Kruger and I had a discussion prior to the beginning of the meeting and he indicated he had an opening statement which would last no longer than 20 minutes. So if members have no objections, I am going to allow that to occur. Hearing none, Mr Kruger, the floor is yours.

Mr Kruger: I thought what I would do with the opening statement is merely give you some type of concept of what the board is, some of the difficulties that we face. You have the curriculum vitae of the members, so you know what the backgrounds of those members are. There are 30 board members and one chair, and our present complement is 29 plus 1. Some 60% of the members of the board are lawyers, several having a QC.

If I might, this is Mr Howden, who has made it.

We have a couple municipal engineers on the board. This is in background. There are some chartered accountants. There are planners. We have two members of the board who have dual degrees, both land use planners as well as law, and all of the members have some considerable municipal experience. We have an architect, one person from the educational field and one person who is from the farm community, actually ran a 700-acre dairy and beef cattle farm and was a graduate of the University of Guelph. So there is a mixture of these people on the board and they all come from a variety of backgrounds.

Of the members, 19 were appointed at pleasure. I should tell you what that is about. Before the previous government came into power, all members were appointed at pleasure, because in many ways our members come to us when they are in their late 40s or 50s and it is a career choice. We are an operational board and we have an enormous workload and this is probably the final point of their career. So they came to us and they were at pleasure and of course in many ways they were very similar to civil servants. They get pensions and all of those things.

When the last government came into power, they were all appointed at a three-year level. They started getting into a three-year cycle. The difficulty was that many of them did not realize that. They thought they were going to be at-pleasure appointments. That is some difficulty that the board now has and we have representations before the government to get this sorted out before we bring more members in. We have to make up our minds what in fact the member should be.

In the three-year appointments we have started to get visible minorities on the board. There are four visible minorities. We have women on the board and in fact, two of those women are the ones with the joint degrees. The board is starting to reflect the community out there, but it is very difficult to get members. Our best source of members is from the private sector or from the legal departments or the planning departments of municipalities. In fact, we have obtained most of the visible minorities from that particular source.

There are member issues which are before us and which we have put before the government. We need to know what is going to be the status of the new members who are hired and we are coming up to the point where we are going to need six new members. We are in dialogue at both the political level and Management Board of Cabinet on that. There is also the question of salary. When most of the members came forward at the three-year appointments the salaries were competitive, but now the salaries in the municipalities and in the private sector have outstripped that. This board is different from other boards where, as I say, it is a career and they are like civil servants. So there are some of the member issues.

When I became the chairman of the board, the first thing that we called for was a consultant's report. We saw that there were difficulties. This was recognized by the board and that produced this report. It was done by an outside consulting firm, the Coopers and Lybrand group, and it took a look at every single thing the board did.

There were some criticisms of that. They said: "Some of the methods and procedures you've got, you've got a terrible backlog. You've got to change some of your procedures and the way of the past. You have to change some of these things." They also highlighted that the backlog was not going to go away and in fact it was going to get worse.

It takes 18 months to train a member of the board. They have to be trained and they have to understand rules of practice and procedures and so forth. Being a lawyer is of some help, but if you do not have skilled municipal experience, it is not much of a help. So it takes 18 months to get them on stream, and within the next two years we are going to have six members retire. One member retired

on 31 December and has not been replaced. I have another member who will retire in June whose time is up. I have another member who retires in September of this year. I have another member who will probably retire in June because the 90-and-out has the pensions. I have a member who will retire early in 1992 and I have one other member who is ill and we are not too sure if that member is not wanting to retire towards the end of this year.

We have suggested to the government that we want to increase our complement of 30 so that we can get these people trained and then within two years we will be back to 30. We are going to lose, on average, 16 years' experience in these members, which is quite a blow to the board. In total, if I add up the experience that they have had in adjudicative work, it is some 97 years, so we are very concerned about that as we go forward. That has caused a backlog, not just the members alone but the weight of the pressures that are upon the board.

Some of these figures might not have turned up in your review. On average, we receive some 6,000 requests for appeals in a given year. I took some figures off as of 31 December to give you an idea. There seems to be some thought out there that in a time of recession the board's workload goes down. The board's workload is stabilizing and is not going down. The mix within that workload is rather interesting.

Back in December 1988, which should be the time people would consider the highest point, we had 266 assessment appeals; that is, waiting to be assigned, not within the system, just waiting to have a hearing date. As of December of this year, there were 347. We had 125 zoning bylaws before; this year 214. But this is the one that does not surprise us, because it happened in the last recession: Consents were 154 and to now, unassigned, 508. What happens in a time of recession is that people do not buy new homes, they try to fix up their existing homes. In the farming community, this is the pension plan of farmers and they want to divide off their land. Every one of the consents requires a hearing. There is no way around it. Variances are the same thing, from 133 to 352.

Per member, we were clearing between 60 and 65 hearings a year. You must remember, a hearing can be half a day or it can be 20 or 30 days. We are now clearing 75, so the productivity per member has been increasing and that is partly due to their experience.

The backlog presently exists. It takes 13 months to get a hearing before the board and that is increasing. In this time, what has happened, although the numbers of appeals have stabilized, is that the appeals are getting longer. There is hardly an appeal where the environment does not now enter into it. We are hearing that even on consents. For example, we have in the system at the moment 1,713 assessment appeals. That involves some 37,000 complaints. So the workload on the board is enormous and we have to find better ways of handling this internally and administratively. We have to look at things like alternative dispute resolution, we have to look at things like mediation and all of these methods, rather than just put on more members. That is what we are going to attempt to do.

1020

To be of help to your committee, I took a look at the next two weeks of the assignment of our board, beginning 28 January and for the week of 4 February finishing on 8 February. This is what is before us, and I would say that this is not an extraordinary time. You must remember a hearing time is only one very small part of what the board has to do. The board members have to review the file and listen to the evidence during the hearing. Then they have to go back and weigh that evidence, adjudicate it and produce a draft decision. That decision has to go through a process of peer review before it is ever issued. So let us say a half-day hearing could turn into work time of about two actual days when you get through.

One of the things we give priority to at the board is affordable housing. In the next two weeks this is what is going to happen, these are members who will be assigned. We have five days of hearings scheduled for Vaughan affordable housing, five in Hamilton, 14 days will begin in Newcastle, 10 in Toronto, five in Etobicoke, three in the town of Arthur and seven in Wawa. So the members go all over the province.

That is 49 days of hearings. That is going to tie up 14 members, because what is occurring in affordable housing now is that we have two members on every one of these hearings and we get it from both sides. There are always difficulties with the communities where this has to go in. That is generally our experience. I should not generalize, but I would say in most cases there is some difficulty. If we turn it down, and we do turn them down if it is not good planning, we get it from the advocates. We get it from both sides. But that is 14 members.

At the same time that is going on, we are starting 20 days of hearings in Alliston on official plan and zoning bylaws, 15 days in Barrie and 10 days in Blind River. That is going to be in French. We have two members who can take it in French. That is an amalgamation of an unorganized territory, and that has come to be a very political thing up in that part of the country. We have three days of hearings starting at Wasaga Beach, on the conflict between Wasaga Beach and the county regarding their waste disposal facility, and we have 10 days of hearings in the township of Sydenham on official plan. That is another 58 days and we have 10 members tied up on that. So I have 24 members who are going to be tied up in the next two weeks doing work like that.

When I came on the board there was a little do for the retiring chairman. A person came up to me and said, "My name is Thomson." I said: "That's interesting. I have a Thomson on my board." He said, "That's me." I have never seen the man, because he is involved in this hearing on toxic waste down in the Niagara area. Mr Bradley would know all about that. We have not seen him for a year and a half and we do not expect to see him for another year and a half. He writes to us to let us know everything is all right. Every once in a while we phone him, but on these joint board hearings it is like an abyss. I lose these people; they are gone for a period of time.

The board has an enormous workload in front of it, very controversial, and I will just go through some of

them. There are the railway lands. We are just finishing the Ottawa-Carleton official plan; that was 60 days of hearings. That will finish up at the end of February. We have joint boards coming up. There is a hydro transmission line in southwestern Ontario, which is going to be a very long hearing. I have the Etobicoke hearing coming up in October; that is going to be a very important one, on the lake front. At this time of year we are getting involved in things such as the ward boundaries in municipalities. This is always controversial. We started off in Mississauga with three days and we are going to have to go back for another five days.

The board has in front of it—all this was outlined in the consultant's report, which said, "It's not going to get any better, so you have to get your members on, you have to get them trained and you have to improve some of the way you do business."

We have put forward our budget. It is in the process through the various provincial levels right now, and we have expectations that it will indeed be covered. If we get the resources we are hoping to get, we should be able to reduce the backlog from 13 months to, by the end of this year, about nine. By the beginning of the next fiscal period we might be able to get it down to six from nine.

One of the problems we are going to have is the new members. We are trying to go to part-time members. Part-time members would have to be ex-board people, who have been on the board, who know our methods. We can bring them on stream almost immediately. One of the difficulties is whether they are going to be treated as new members. Will we have to go through the process which finally finds its way before this committee? That is one of the difficulties.

We see no problem with the new board members. We will work that out with the minister. We have some members who are coming up for reappointment and some of these things are of concern to us and we are talking to the minister about that.

The state of the board is that we are making our best efforts. Our members are working very hard. Their productivity per member is increasing, but it is just the reality. Our hearings are getting longer and longer in numbers of days. What a lot of people do not realize is that anything that touches land use gets into socioeconomic questions, for instance, when Mr Farnan, the minister, announced he was going to have group homes rather than incarcerate people. Fine idea; nothing wrong with it. I shuddered, because every group home hearing—you can imagine what it is like in a community. If it is 12 days of hearings, it is two days of evidence and 10 days of emotion. One of the members sitting here can tell you all about that up in Sault Ste Marie, where we have just been through that.

That gives you some ideas that might not have come in your research papers. If there are no other comments from my members, I am in your hands. Be kind to me.

The Chair: As always. I will open it up for questions and comments.

Mr Bradley: I have a question about the rehearing of matters that have come before the board. I think many people in Ontario were probably under the impression, unless they were involved in municipal law or had been a proponent or an opponent in the past, that once the board had heard an issue and rendered a decision, the decision of the board is final, subject to cabinet overturning such a decision, if cabinet can in certain cases, or it going to court for some reason for judicial review. How often do we have circumstances where cases are reheard because a sharp lawyer is able to convince the board that there was something wrong with the initial hearing?

Mr Kruger: If I might amplify on what you said: If it is under the Planning Act, there is generally no appeal to cabinet unless it is a statement of provincial intent. The appeal mechanism is under section 42 of our act, which says the board can vary any decision. That generally comes to myself, and I discuss with some of the vice-chairs, or it can go to court on questions of law.

On certain other matters, there is a cabinet review. If it is a matter of declared provincial interest; a case in point will be the Etobicoke hearing which will go forward. When I first came to the board, which is not that long ago, about nine months ago, we were having not too many. There has been an increased frequency of requests. This is due, as we see it, to three points.

1030

First, on the consents and variances, I am getting more and more section 42s or requests for a rehearing. If people have to wait 13 months to be heard—an appearance before the board is, for the average individual, a big thing in his life—then if they are turned down, some of them get very angry if for some reason they do not win the case. There is always a winner and loser before this board. We are an adversarial board. We operate like the courts. I have been getting quite a few of those. Of every 20 requests for a rehearing, I would say maybe one will turn into a rehearing. I have had in the last nine months about three that actually had to turn into a rehearing.

There was one in St Catharines that came up, and that is probably what motivates the question. I think that was a proper one for a rehearing despite the fact that the ratepayers were quite upset about it. There was a question about it, but there are not that many. However, on the consents and variances, it is coming through.

We also get a few requests on zoning bylaws; a few, not that many. There was one that came up recently; it was an environmental question where a school was to go into a certain area. The Ministry of the Environment came along and said, "That pond is going to cause all of the smell to come forward," and so forth. We particularly heard the evidence, and based upon the evidence given to us we had to turn it down. That came through for a section 42. We took a look at that and reviewed it, but then we listened to all of the points made by the solicitor and decided it should not be done.

There is another thing I should point out. There is another appeal from us, and that is to the Ombudsman. If people are not satisfied with what we do, it goes to the Ombudsman.

Mr Bradley: What criteria are used to determine whether there should be a rehearing?

Mr Kruger: The facts of the case. We take a look at the decision. We take a look how the decision is written. If the points are made from the opposing solicitor, they outline what is their submission and we take a look at all those points and try to determine from that if there is validity.

The board, as a practice, tends to lean over backward, particularly where ratepayers are involved or the community is involved. If there seems to be any question about an error made in the decision that was rendered vis-à-vis planning, we will then put it out for a hearing.

Mr Bradley: In your evaluation, recognizing that you have been there a relatively short time—you may have discussed this with others—are some lawyers more successful than others in obtaining rehearings?

Mr Kruger: No.

Mr Bradley: If we were to do a study of the rehearings that were held in Ontario, we would be unlikely to find that particular lawyers are particularly successful.

Mr Kruger: You would find no trend. One thing I must say is that the board is exceedingly evenhanded. In fact, the average citizen looks upon the board as the court of last resort and they put it in without even a lawyer. A lot of the 42s have nothing to do with a lawyer, particularly where there is a consent or something like that. It is an individual. To him, every piece of evidence he gives is important, but what the board members have to determine is what the important parts of the evidence are, and maybe there is something there. After all, we have to write a decision. We might not have mentioned that. That upsets some people.

Mr Bradley: Speaking of lawyers and average citizens, what is your evaluation of the opportunity today, compared to perhaps 10 years ago, for the average citizen, without a high-priced lawyer and experts, being effective in fighting a case at the board? There is a feeling out there, a feeling in government perhaps, that with respect to our agencies, boards and commissions, including the Environmental Assessment Board—I would be interested in your experience in the Ontario Municipal Board—it is no longer easy for an average citizen to come before a board to state a case when faced with a battery of high-priced lawyers on the other side.

Mr Kruger: I can speak from today and my colleagues can speak of the time you mentioned, because they were on the board then. Today I do not think it matters at all. There is a concern, and that was brought out in this report. There are not that many cases, and I give a personal example of one I will be hearing together with my colleague here, that is, Etobicoke. Etobicoke is a case in point where the ratepayers have come forward, and I think intervenor funding or something like that would be very helpful. There are only about 20 cases a year where that might apply. That would be helpful. However, I know we are leaning over backward to the citizens who are involved there. Peter, would you like to comment on that? Mr Howden has been around on the board for longer than I.

Mr Howden: There are a couple of things I would like to say to that. First, I have had a number in the last year or two only, where we had citizens involved with no lawyer, no planner, who just came forward with some honest concerns about whatever it was, and they were successful. We try very hard to understand what they are trying to say. They cannot put it in the lingo that, as you say, a smart lawyer can or a planner or whatever. Often there is a very real kernel of a point behind all that which you have to search for, and bring it out, put it in the arena and let the people deal with it, who are represented, but at the end of the day we have to make a decision. We do give weight to that kind of concern, and where it has not been addressed the people whose job it is to address it are going to lose, and that has happened several times with just myself in the last year.

The second thing is that it is difficult always to make people feel at ease where there is a big issue involved with a lot to lose and a lot to win on both sides. Sometimes these are very crunchy issues we are dealing with. We try to maintain a certain decorum in the room which will allow people not to be put off. I know it is difficult sometimes and some lawyers are better at it than others. It is not just us who can deal with that situation. I think the legal profession has a little to answer for on this score—occasionally; not as much as it used to.

We try from the moment the hearing opens, if it is well run, and I think most of them are, to draw those people in, to ask them, "How many of you will wish to speak at the hearing?" Make sure they have the time allotted so they know when they can, or fit them in if they have time problems, let them ask questions if they wish to. We are fairly elastic in the procedure, much more so than maybe 20 years ago when I first started practising before the board. I am from Barrie, by the way, I am not from Toronto. We did feel up there a certain sense of people coming in from outside, doing their work and getting out, and we had to live with it. We are trying to do what we can to deal with that as best we can and to make people feel as much at ease as we can in a sometimes difficult situation.

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Mr Kruger: Mr Colbourne has been the vice-chair and been around the board for a very long time.

Mr Colbourne: I think the problem for the public generally is in the appeals on bylaws. Consents on minor variances come, probably 60% of the individuals represent themselves, so there is no concern and no problem there, except that they may be intimidated by the county lawyer or the county planner. That is a matter of the weight of the evidence, but of course they are the applicants or appellants, as the case may be. The problem is in the major hearings where you have a battery of lawyers either for the developer or for the municipality, and they are opposed by the individuals.

The rail lands is a major hearing, but this is just one part of the rail lands that I am dealing with. We have had three individuals who have fortunately been able to stay throughout the whole process, which has meant five weeks right now, and they are actively participating in the

examination of every witness. They are given that opportunity. In terms of the general public, we do set days for their participation. There is sometimes, in those major hearings, a degree of intimidation, but I do not think the board members could ever be criticized for not watching out for that sort of attitude on the part of the sharp lawyers, the developers' lawyers.

Can I back up on the section 42 reviews? There are clearly established criteria which have been in place for at least 15 years. There are four points that are considered on a review. The affidavit must cover the four points—and error on the face of the decision and some evidence that was available at the time of the hearing but was not produced at the hearing; the other two my colleague, the lawyer down at the other end there—there are clearly established criteria. There are four of them.

Mr Kruger: Anna, I think, who is one of the newer members of the board, came on to the board at the same time as myself but had experience by appearing before the board and is also a planner.

Ms Fraser: Perhaps I can give some assistance. As Mr Kruger said, I was a city planner before I went to law school as a mature student and I got called to the bar in 1982. Then I practised quite a bit before the OMB, which I suppose seems natural enough given my other work experience.

It was not unusual for my colleagues and myself, with the law firm I was with, and we had a fairly sophisticated group of practitioners before the municipal board to advise people who would come to us for advice to represent themselves before the board, because the reputation of the board among people who are knowledgeable about it in the legal community is that quite often on consents, variances and objections to various matters the board is so courteous to the unrepresented ratepayer that sometimes it is much better to go and speak for yourself. Sometimes we would say: "If you retain a lawyer, they'll think that you've got a lot of money to throw away. You've got good, valid points and you speak clearly. You just go in there and tell the board what you want." Never once did we have someone come back to us saying, "Boy, you really gave us a bum steer." Inevitably people would say that we had been right, that they got a courteous hearing. That is something I can speak to and I know it continues to the present.

Mr Kruger: Mr Bradley, I would finish this off. Sorry for our long response to you, but it is something that is very dear to this board. Let's take consents and variances. If there is one way to get rid of the backlog on this board or to bring the backlog down, it is to say to the board, "You no longer do consents and variances." If we did that, I am afraid there are a lot of little people out there, particularly when you get into the more rural areas of this province, who would say, "That's the worst possible thing that could happen." They want their day in court. I am accessible; anybody who has had a hearing can call me. I have to be very careful as to what I say to them, so I do not get into the merits of the case. They will call up and I have had people say, "I knew I was going to lose, but I just wanted to have my say." This is an individual. People are that way. So we lean over backwards towards these people. In the Etobicoke hearing I have 14 lawyers. I have no less than about 32 intervenors who want to have their say before the board and we are accommodating every one of them.

Mr Bradley: You mention the Etobicoke hearing. Is the board—you may come back sharply to answer this question—influenced by the fact in any way that in the Etobicoke hearing the desires of the sitting member in Etobicoke-Lakeshore, now the Minister of the Environment, are well known on this issue?

The Chair: Before you respond to that I just want to say, in fairness to all members of the committee, that I am going to move along and we will get back to you later on if the opportunity presents itself.

Mr Kruger: The answer is no. I can say that in the clearest possible terms.

Mr Colbourne: I have been on the board for 22 years, Mr Bradley. In 22 years, I have never been approached or heard of a letter on any of my hearings or any of the hearings of this board, with one exception which was 13 years ago. That particular member of the Legislature was dealt with by the then Premier. I have never, ever, through a chairman or been advised by a chairman that he has been influenced or has been corresponding with any member of the Legislature at all.

Mr Kruger: I am the worst type of chairman to try that on, I really am.

Mr Grandmaître: That is what Jim Durrell says.

Mr Frankford: Mr Kruger, you said in dealing with some of the problems of membership that you speak to the minister. This would be the Attorney General?

Mr Kruger: We are responsible to the Attorney General, it just so happens. I do not speak to the Attorney General on any case and under the rules right now there is no way that the Attorney General would call up any member of the executive council—this is true of the previous government and this government—to talk about any case that is before us.

Mr Frankford: I was not wanting to speak about Mr Bradley's point at all. I just thought to open up another area, the relationship of the board with the ministry, which is the Attorney General.

Mr Kruger: What we do, it is the Ministry of the Attorney General through which we must process our budget. That is the relationship; it is with the Ministry of the Attorney General when it comes to the appointment of members, and I think this is quite proper and valid. I think it is the Attorney General's office that should advertise for the members and so forth, because after all, under your standing order 104(g), whatever it is, he must lay on the table—those are the terms that are in it—who these people are. So there is that type of process but it is very distant. The only time I see the Attorney General or his parliamentary assistant is to tell them of some of the problems we might have. It is never about cases and it is always administrative.

Mr Frankford: Perhaps it would be useful for the committee to hear more about the relationships of agencies. I

am thinking somewhat more generically, that agencies are under the aegis of ministries. The other thing I just wonder about is, it would seem that the work of the OMB would logically perhaps relate more to Municipal Affairs or Housing.

Mr Kruger: Let me answer. That is what I thought you were leading me towards. Back in 1971, this is the time of Mr Kennedy, at that time the OMB was responsible to or did operate through the Ministry of Municipal Affairs. There were some questions raised at that time about the influence that might or might not have been placed on the board because of that relationship. You must remember, we administer something like about 100 acts. The Ministry of Municipal Affairs is merely one of the ministries. The Ministry of the Environment, the Ministry of Natural Resources, the Ministry of Housing, we are in contact with those all the time.

The nature of our business, being an adversarial board as different to from inquisitorial board, as most regulatory boards are—we are not a regulatory board—and being very close to the courts, it was decided back at that time to move us to the Attorney General, where there could be no question about the complete independence of the board. We would have the independence that a court has, and that was the signal. Since that time we have been there. At that time also it was made quite clear that the status of the members should be at pleasure, very similar to the courts, because in many ways we adjudicate like judges. In fact, it was only just in recent times that on some appeals that might have gone to the county court on assessment they had to come to our board; it was the final source of appeal. So there was that history.

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Now if you were to say, "Where is it more likely that I'd get money and my budget would be easier?" sure, it would be nice to be with Municipal Affairs because they would like to have enough members to get through with all of the hearings, but if you were to ask me what the ministry was to which we should be responsible, not only for perception but in real terms for the work we do, obviously that is the Attorney General. Does that answer your question?

Mr Frankford: That is helpful. Thank you.

Mr Kruger: Very good.

Mr McLean: Could I have a supplementary on that? You said that they advertised. Whereabouts do they advertise for the positions?

Mr Kruger: When I came to the board I responded to an advertisement that was advertised in the Globe and Mail and it was advertised internally. I thought, what the hell, I will take a crack at it, and I got the job. So the advertising would be now—I have suggested to the minister that we should advertise—and they will make the decision where they are going to advertise, but I would think you would advertise in the daily newspapers. You would get into the outreach communities as well. I think we have to do more of that. Also, one of our best sources for new members is from our existing members who have seen people appear before them. We know most of the smart people out in the municipalities. That is what I mean by advertising. I have never had any problem in searching the total market to try to get the best possible members. The only difficulty is that they must come with certain qualifications.

Mr McLean: That was going to be my next supplementary. Anyhow, carry on.

The Chair: We will put you on the list. Do you want to be on the list?

Mr McLean: Yes, I want to be on the list.

Mr Grandmaître: I would like to address your workload. I know that you are very busy people and the number of applications or appeals or referrals are increasing every year. I have always maintained for the last 15 or 20 years that you should not be in the assessment appeals business, and you see that a number of regions including Metro at the present time are thinking of regional assessment. More and more regions are looking at regional assessment. I have always thought that the experts in assessment are with the Ministry of Revenue and not with the Ontario Municipal Board. I am not saying that you people are not experts or that you do not have experts in assessment. I am not saying this, but when I look at your workload—and I think you have been very fair. You are not asking for a 50% increase in your membership.

Mr Kruger: No.

Mr Grandmaître: I think you are being reasonable, for the time being anyway, until the number of referrals—

Mr Kruger: We are very responsible.

Mr Grandmaître: I know. I was very surprised to look at the number of assessment appeals, 731 in 1989-90. Also, another field that I feel you should not be involved in is minor variances. That is the way I feel. I do not think that you should be involved in minor variances. I think planning boards, even in northern Ontario where you have unorganized areas where you have transportation boards, road boards and so on—by the way, can I ask you a question? Write it down. I do not need an answer now. Can they appeal a decision of these transportation boards, road boards or whatever, can they appeal to you? Can the decision be appealed to you people?

Mr Kruger: I am not aware of any.

Mr Grandmaître: In northern Ontario?

Mr Kruger: No, I am not aware of any. Say you want a response to the minor variances and to the assessment appeals. Let me deal with minor variances, first of all. That of course has to be a political judgement of the government in power. The minor variances are important to the individuals. What we have done, and we did this and the question arose in the last government as to whether or not minor variances should be—the board should not be and they should stop at the municipal council. That was the thought. The board took the position, "If that's what you want to do, go ahead and do it, but know that there are a lot of people out there who are then going to have some access to appeal, so where are they going to appeal to?" That is why the board got into these in the first place, because they were taking these to court. To that individual, be it in northern Ontario or wherever, that is very important to them. I have just had a case, section 42, as a matter

of fact, that has come before us where what is in dispute is three inches of side yard, three inches.

Mr Grandmaître: For $3 million you are going to argue for three inches.

Mr Kruger: It was not $3 million. It was not that, but to that individual it was very important. That is a political judgement as to whether or not the board should be involved in things like that. That would take down some of our workload. Now, when it comes to assessments, I would let the person here who is probably the most knowledgeable—that is Mr Colbourne. Would you like to give your thoughts on that?

Mr Colbourne: Mr Grandmaître, we are not experts in the assessment field. We listen to the experts who present the evidence and adjudicate it on that basis. Our major problem in the assessment field is not on the individual appeals; it is the major buildings. In downtown Toronto I think there is—almost every office building in downtown Toronto. Our backlog is partly a function of a very small bar who practises in the assessment field and that is where our backlog has a problem. I dealt, for instance, in one hearing two months ago in Uxbridge with 10 gravel pits for five years, so that is 50 files. After four years of adjournments and court actions between the parties, that boiled down to a one-day hearing on one issue. That was dealt with in that way. I would think that—again it is a political decision—where the hearings officer should be on assessment appeals, it is my personal feeling that the individuals out there would probably not be too happy with individuals from the Ministry of Revenue dealing with their appeals when it was the Ministry of Revenue that put the assessments on. It is one department looking after the appeals of individuals from another. That is my view. We provide the adjudication—independent.

Mr Grandmaître: I just said, the Ministry of Revenue sort of in a committee or a board at arm's length but responsible in the long run.

Mr Colbourne: Again, there may be that slight perception of the conflict between—The Ministry of Revenue is a party, similarly to the Ministry of Natural Resources and Environment and Housing, Municipal Affairs are parties in a lot of our hearings—so that if we were connected in some way there is, if not a reality, a perception of lack of independence from those parties.

Mr Kruger: Anna has something to add to that.

Ms Fraser: It is true, as you say, Mr Grandmaître, that there are some very, very skilled people with the Ministry of Revenue and we have the privilege of having them appear in front of us as witnesses. Our task is to listen to the facts and to determine what should be the outcome. It has been stated as a principle of administrative law and it has been stated often and I think it can be restated without any redundancy that justice must not only be done, it must be seen to be done. To be seen to be done, it has to be seen to be independent. Since the Ministry of Revenue establishes the very assessments that are then the subjects of the appeals, I would be very, very concerned that you could properly say in good conscience that there could not ever be a perception of bias, that there could always be a perception of true independence with that setup.

I agree with our chairman that the proper ministry for us to be in front of, since we are triers of fact and law, is the Attorney General's department, and then receiving the benefit of the skill and expertise of the various witnesses before us, including the ones from the ministries.

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Mr Kruger: As you would know, sir, from your own experience in government and in the municipal field, the board quite often finds itself in the position of adjudicating matters where there will be two ministries involved, with different views, and it is our independence that comes into play because we are not experts. We listen to the facts and based upon the evidence before us—sometimes it is a little frustrating. We might have views, but we cannot have views beyond the facts that are presented. Does that answer your question?

Mr Grandmaître: Yes, it does. As you mentioned, as a former municipal politician I was always concerned about your backlog.

Mr Kruger: Yes.

Mr Grandmaître: The average is 13 months, is it?

Mr Kruger: Yes, 13 months.

Mr Kruger: Too long.

Mr Grandmaître: Yes, absolutely.

Mr Kruger: It should be 90 days.

Mr Grandmaître: Well, it could be 90 days. I think it is very costly to the appellants.

Mr Bradley: With more staff and more money, it will be 90 days.

Mr Grandmaître: It is very costly to developers, municipalities and so on and so forth.

Mr Kruger: And better processes, too, Mr Bradley.

Mr Grandmaître: Going back to your consultants' report, did you ask these people to look at your workload, and not only to look at it, but to recommend ways of improving the backlog by another way of accomplishing as much as you are doing now, or more than what you are doing now, with the same number of people? Was this part of—

Mr Kruger: It was, and in fact they gave some very precise suggestions on case load management, what we should do on case load management. They went through every aspect of what the board does. It is along those lines that we are now proceeding. We have put in our estimate of what we believe is necessary. We will be changing the function of case load management within the board to modernize it, to make if more effective and more efficient. There will be a greater relationship between the staff and the board member. We will be bringing in things such as ADR, alternative dispute resolution mechanisms. We will be bringing in mediation.

Now, all of these things have to be codified. We are in the position we need to get some people who can codify these things. Then we will discuss it with a focus group, being AMO, the municipal bar and so forth to see if we

can get co-operation from these people. It may be necessary to change some legislation. There is some thought and some view by some people that what we should also do is to not only bring it in, but computerize it better.

We should have more dialogue between ourselves and the municipality to get the files brought up to a point where we are just not sitting there and opening up a hearing and finding, "Oh, well, we did not know that." This is very true of assessment hearings, where a lot of the individuals who come forward say, "Well, had I have known that, that is the way they go about it." So we are getting more and more into pre-hearing conferences, pre-filing of evidence. All of this is going on and this was brought out in the consultants' report.

As you know, consultants go around and they talk to your members. Most of these things are not just something out of the blue that is new to the board. We have thought about these things, but the board members have never had the time to concentrate their minds on these things. What this has done is do that for us. It is based upon that, that we are now proceeding to alter some of these things in the board. Yes. it has been a very important document.

Ms Haslam: Thank you for asking my question, Mr Grandmaître. My question was, how readily available was this—

Mr Grandmaître: Are you satisfied with the answer?

Ms Haslam: That will remain to be seen. My question is, how readily available was this particular report, because we only have one copy here and I do not know how readily available it was.

Mr Kruger: Well, we did not get too many. We had a limited budget and they only—

Ms Haslam: What was your budget?

Mr Kruger: The budget, in total, was $125,000. Of the reports, there were about 50 of these things in these nice things produced. If you want a copy, it means photostating them. There was also a question I must—

Ms Haslam: Thank you. I will consider that. Now, you have mentioned modernization, ADR, mediation and staff relations. I have a couple of questions. I would like you to go a little more into how you are going to modernize or what you are going to do as this report has suggested. One of the other things you mentioned was change in legislation, and I would like to know a little more about that particular item that was covered in this report. Was there something else that you are instituting from this report that you would like to share with us?

Mr Kruger: Let me just go down the report in its contents—

Ms Haslam: No. You can pick out one, I do not mind one, but I would like to get an idea of maybe a couple. I do not need the whole thing. I would like a couple more. I would like you to elaborate on modernization and what you are doing, how you are doing that and what legislation you wish to have at that time.

Mr Kruger: All right. let me talk about modernization. One of the great difficulties at the board has been in the way we have hired staff. Staff have been hired at the intake level of the Ontario public service. Now, these are qualified planners. They come out of a university and they are paid very low. They have not been permanent members of the OPS. They have all been on contract. What has been happening is that they have come in and because of the low wages, they spend six to nine months on the board and then they leave. They go to municipalities, and having on your curriculum vitae that you have been at the Ontario Municipal Board is really something.

One of the difficulties has been the way we have had these staff operating. Our own senior staff have not liked this, but they have not been able to do anything about it, and that is, you become an expert on, say, assessment. A file comes in. If it is an assessment file, that is what you handle. If there are not too many assessment files, there is not that much you do. So one of the first things you have to do in proper case management is that you have to have your people trained, you have to pay them better than what they have been paid, and you have to have them come in so that they can handle any type of file. So their tasks now will be not only to make sure all of the documents are complete, but of the quality of those documents that are there.

Also, we have to computerize this so that we can pull it off. We have not been completely computerized at all.

It is in those areas that we are going to do it. We are going to pay the people more. We are going to give them training, not only on one-case management but also training itself.

One of the other things that this report says of the members is, what training do they have? The members come in and we have this system whereby they sit with another member and kind of get training that way. We are going to have it now. I have put it in. Our members should be going to seminars. They should come in with an orientation training. There should be a definite training program for each of those members who comes on board. That is now going to be done. That is a part of the modernization of the process so that it will be complete.

They talk about the case for consistency. The board members are now coming forward and we are starting to look at this in our system internally, in our peer review system. The performance review is something that is going to be instituted on the members. Once a year I will sit down with each of the members and we will systematically go over what their performance has been, and this eventually will find its way to the minister. We are going to modernize the personnel part of the things that we do.

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The report, from pages 54 to 103, talks about the whole of the case management system. We will be following that. We will be breaking the staff into area groups so that one group can help out another group and so forth. Some of them will be trained in mediation as well, because mediation starts with that first case manager. We will be looking into the management structure that we have.

On some of the things we are looking at with regard to legislation, we are just starting to get into that, how things could be done a little differently, like the number of days you have to put it out to the people in a particular area. We

see difficulties as they come forward and there are some of these that we took to the board at its last meeting.

Wherever legislation is made, as a board, we are the end of the line. We see whether it is good or not. We have to become proactive. We have certain ideas. You see, the members will come back from hearings and say, "You know it would be good if they did that." That heretofore has got lost. Now we will have the resources to capture that. We will network with the various ministries that are involved, get to those ministries and say to their policy groups, "When this comes up you should be thinking about this." If necessary, we will take our case forward to the deputy minister of that.

That is a process. There is no one magic thing. It is a lot of little things and it is process more than anything.

Ms Haslam: I keep hearing how poorly paid we are. I would like a contrast in the pay scales. When you say that people stay and then they leave, are they actually getting paid a lot more at a municipal level than they are at your board?

Mr Kruger: No. I am talking about the intake level. They are in what is called, forgive me for being a bureaucrat, an OG 6. They are an OG 6 and they go up, and all that we are asking is that they be put forward. As a matter of fact I can tell you that these are qualified planners when they come in on a contract. If you want to know how much they have been paid, just give me a second. What is it?

Ms Fenn: It is $27,000.

Mr Kruger: These are highly skilled people. They are paid $27,000. They can walk into a municipality after six months and they can get at least $35,000. Anna has got some thoughts on that.

Ms Fraser: Perhaps I could add something to that, Ms Haslam. I was startled to realize that our professional planners, some of whom have master's degrees, would get a salary increase if they would consent to work at the board only as clerical staff, as one of the secretaries. The secretaries are paid more.

Mr Kruger: Yes, at the present. We are going to correct that.

Ms Fraser: That is not to downplay the secretaries; it is just to put it in context. They should be paid at least as much, I should think.

Mr McLean: The board is a non-political board.

Mr Kruger: Absolutely.

Mr McLean: How did you get your appointment then?

Mr Kruger: I responded to an advertisement. As a matter of fact, it is no secret and I am quite blunt and up forward. I was in the process of seriously thinking about leaving the government. I had gone through some difficult times on some of the boards they had put me on. I saw this ad and, after all, I have had a lot of experience in the municipal field, and I replied. I was almost going to return to the municipal field. So I responded to an ad. It was a competition. That is how I got my job.

Mr McLean: Why would one of the vice-chairmen not become chairman?

Mr Kruger: Why would which?

Mr McLean: A vice-chairman not become a chairman.

Mr Kruger: Well, that was a decision of the government at the time, to put out the advertisement, and one of the vice-chairs did indeed apply. In fact, a couple of the members applied as well. I just do not know by what mystery I got appointed.

Mr McLean: The time for zoning bylaw hearings: Is it less than the 13 months? Would they be a priority with your board, to hear them more quickly?

Mr Kruger: No, they are not. The priorities of the board that we have right now—we are in a bit of a recession—go something like this: affordable housing, number one; we pull out all stops for affordable housing. Then we take a look at what is involved and the amount of employment it might give and what the difficulties are in the particular community. We do not respond to any pressures. If I responded to pressures, I can tell you that a hearing for the Ottawa Senators would have already been held. We just do not respond to the pressures.

We try to weigh the cases, the number of days that are involved, the number of people who are objecting and the type of objections. That is between myself and, primarily, Mr Colbourne. We are working with the calendar almost on a daily basis and we consult back and forth. It is also the availability of members, because on certain types of hearings we have some members who are very good and very knowledgeable—if it is assessment, or expropriation or something like that—and it is how long have they been on the board. I have some members who are excellent when it comes to the more rural things, and that is what they want to do; that is what they prefer. It is a variety of a whole mixture of things.

Mr McLean: You indicated that you are going to do an assessment of the members on a yearly basis.

Mr Kruger: Yes.

Mr McLean: Being that you are doing that, do you think you have some members now who are overpaid?

Mr Kruger: Nobody is overpaid.

Mr McLean: I thought I would get that answer.

Mr Kruger: There is nobody who is overpaid; I can tell you that.

Mr McLean: Is the pay scale satisfactory? Would you deem it to be that?

Mr Kruger: The pay scale for the ordinary members? Three years ago it was; today it is not. One of the difficulties I am finding is whether or not we will be able to attract members to the board at the present level of salary that the ordinary members get. It is no secret how it was decided. They had to be put on some type of scale within the civil service, I guess, so they selected and they said, "Well, these members should be the same as directors," and they were put on a director's scale. That is what is called an executive compensation plan 3.

Those members this last year got a 1.93% increase. If I go out and try to get a person of similar qualifications from a private law firm, forget it; I cannot. Some members will come from a private law firm because they see that the

board is a senior board. It is a prestigious thing and they want to make this their career. If I try to attract, as we did before, members from municipalities who are in legal departments, and particularly some of the types of members who we want to get in with the qualifications, I am going to find it very difficult at that level.

We are ranging from about $6,000 to $10,000 below market. Whether or not we will be able to attract the members, the litmus test is coming up when we apply for the members. The salaries of most of the members three years ago, when they came in, were competitive. I have some members who chose the board—these are the older members. There was a time when board members received more money than judges and they chose the board, not because of that but because they thought it would be more interesting work.

We are troubled by our backlog, because whereas in a criminal case, in a drunk driving case, it is tragic and you have maybe one or two people involved, if we have 13 months for a zoning bylaw we have many people involved. Their lives may be tied up in it.

Mr McLean: Does the board have a position with regard to intervenor funding?

Mr Kruger: The board's position in the past on intervenor funding has been very cautious, because if you start intervenor funding for the board you are getting into a position where everybody will want to come out of the woodwork. However, we have seen enough. The Etobicoke hearing is an example of that, and there are other hearings, the railway lands and so forth, and we now have the experience of the Environmental Assessment Board as to what can happen.

But if your standards are very clear, if the procedure is clear, then I think the board is recognizing there may be some cases where intervenor funding would apply. It is a little tragic to be sitting on a thing as complex as the Etobicoke hearing and find that the intervenors out there are trying to have bake sales in order to get people who will come forward and be able to make a representation. Mr Howden is on that and may have some different views to mine.

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Mr Howden: Mr McLean, I think apart from the regular things that you hear at hearings, the main thrust of what the public has to tell us at a major hearing, and I have done a number of major, major hearings, large plans with a lot of sophisticated evidence and so on, and also very well organized ratepayer groups as well as individuals.

The most common thread among all of that is a frustration in the public at feeling they do not have the resources to deal with the kind of sophisticated planning at the level that is in front of them. As I told Mr Bradley earlier, we try to make up for that by doing our best to understand what they are saying and so on, but just so you are aware, and maybe you are, it is certainly very much in the public mind when they come in front of us.

As far my own views on intervenor funding are concerned, I think that is a matter for the government, and this Legislature obviously, to deal with in its wisdom. We can operate however. I know there are operational problems because of the range of things we do, but there is no doubt in my mind that on a major hearing where it goes beyond one site, where there is a lot of sophisticated evidence coming in from one source often—often it is just the ones like Metro for traffic computer information; they have it—it would be of assistance to have intervenor funding for those kinds of major hearings that affect huge areas of a large community like Metro Toronto.

Mr Kruger: There is another aspect to it too, and this was brought out in the consultants' report. One of the things that they said is that they had reckoned the maximum number of times intervenor funding should apply would be about 20 major cases a year. But there is another aspect to it of concern to the board. The consultants said we should become more inquisitorial in our approach. Now, an inquisitorial approach means that you have resources that are available to the board, that in some of these hearings you would have counsel who would ask questions of witnesses and so forth. The best position that the board is in is not to get into that at all; it is to have the group out there so that the evidence cannot be tainted in any way by any perceived prejudice that there is a board member doing it.

In some of those cases, and there are not that many, instead of going the inquisitorial route for the board, we would be better off to have some of the larger cases represented by a planner before the board so we get the evidence that way rather than have to seek it out ourselves. The board members have limits as to how inquisitorial they can be from sitting on the bench and asking the questions of the witnesses. We cannot get into cross-examination ourselves of witnesses. But I think we do the best we can. We lean over backwards for the average individual there if things have not come out.

Mr McLean: It has been said on occasion a board member would ask the people, "Why did you come here without legal counsel?" In what cases would that happen?

Mr Kruger: I have never heard that. If that is being said by a board member, it has not got to my ears. Had it got to my ears, you can believe I would have a wee discussion with the member. But I have never heard that. Have you ever heard that?

Ms Fraser: No.

Mr McLean: I just have two more short ones, and really basic. What they have to do with is what type of a pension plan the members have and the aspect around appointments. This has to be ironed out, as you have indicated. Is it three years? Is it going to be once more reappointed and then at the end of six years out? How are you going to base a pension on that type of a process?

Mr Kruger: Let me answer the last question first. We do not know. That is what we are discussing with the government. The position of the board is very clear. We have considered this matter for some time and we have put forward to the government a very reasoned position, as we see it, because of the nature of the business. If we bring in performance appraisals and all of those things, then the board appointments should be at pleasure, until such time

as the person is not performing. In other words, that is what happens if you are a member of the public service. That is the position I am in as a public servant. I can be fired any time if I do not perform. That is the position of the board on that.

As far as the pension is concerned, we get the same pension as the Ontario public service, exactly the same. Of course, I know a little bit about pensions, as Mr Runciman would know.

Mr Waters: I just want to ask a supplementary on what Allan was talking about there. You were saying that it should go basically as long as the person would like to sit on the board, but in the report that you refer to, the Coopers and Lybrand report, is there not a recommendation for a five and a three?

Mr Kruger: Yes, there is. What they said, based upon the influences they saw in the government of the day, was that everything is going to a three-year appointment. There is no mystery to that either. The theory behind the three-year appointment is that once you get an order-in-council appointment, it is much easier to get rid of a person after three years. That is what the thought is. But then you can look back at what happens within the public service itself, that is, if you want to get rid of somebody, you can fire him. It is probably going to cost you some money, but you can get rid of him.

However, they said five years. I will tell you where they got the five years from. It takes 18 months to two years to get a member fully productive, so that means when they are fully trained, you get three years out of them. That is why the five years, and they also said there should be no limitation on the number of times that they can be reappointed, provided they do their job. You are almost talking about it at pleasure.

They also talked about performance appraisals. They talked about those things as well. The board saw this and they considered it, because there is a dichotomy now on the board. But that is where the five and the three came from. It was influenced by the position they saw that the government was taking on other boards. You must remember that this was completed at the time of the previous government. That is as much as I can say. The reason it is not being acted upon, much to my frustration, is of course just timing. I get frustrated if I cannot get things done quickly, but I realize there was an election.

Mr McLean: Mr Chairman, just before Mr McGuinty starts, have all the members been reappointed as they have gone on? Are the long-term members reappointed every three years?

Mr Kruger: No, no. The long-term members are on there as long as they perform. We are coming up to the first group of the three-year appointments, and there is a recommendation within this report that, and I think this is fair, a person should know six months before he is going to be reappointed whether he is or not. You must remember that these people have left the legal profession, they have left their own businesses, and for them to go back into that market at the time when they have made a career choice is very, very difficult. It is for that reason that the consultants recommended that there should be some type of a payment, a resettlement allowance they called it, that should be available to members.

Mr McLean: Some lawyers get elected to the Legislature too.

The Chair: I have been calling on Mr McGuinty several times now. I am going to give him the opportunity to have the floor.

Mr Grandmaître: He is going to fax his question.

Mr Bradley: He is going to tell you the mandarin massacre is coming this week. We heard on the CBC this morning that the mandarin massacre is this week so we will all be watching.

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Mr Kruger: Nobody has called me, Mr Bradley.

Mr McGuinty: Mr Kruger, I take it from what you said this morning it is a fair assessment that the backlog that exists right now is unacceptable.

Mr Kruger: That is quite correct. The standard within the board that we would like to achieve, and we did achieve it back in about 1985, when we had 36 members, is approximately 90 days.

Mr McGuinty: Okay. What I want to explore now to some extent is what it is that we are doing or could be doing at the front end of the system, that is, processes that would weed out or screen cases before they became the subject matter of a full hearing. First of all, is there an application fee?

Mr Kruger: Yes. We have just reviewed those, Mr McGuinty. We were on the horns of a dilemma there because there is some movement among municipalities that talk about abuse of process because you have only got to give $125, $150 and you can get a hearing before the board. That is an abuse of process. But we had to weigh that against the ability of an individual who might not have too much money. That is access to justice before the board. We have done that and we have made certain suggestions. The fees have not been put up for a period of time. We have gone the inflation rate and a bit more and suggested that. Yes, there are a lot of front-end things that we can do within our files.

Mr McGuinty: Just further with respect to the fee, has any thought been given to the possibility that perhaps it could be raised and at the same time some kind of mechanism could be in place to assist people bringing applications if they could establish a prima facie case that they could not afford the fee?

Mr Kruger: Well, we have not run into the difficulty where they could not afford the fee, but the idea of assisting people, yes. One of the things that the case managers would now say, if a person is coming forward and he wants to bring his case forward, is, "Look, if you're going to go to the board, these are the tests that you've got to meet, these are the things that you've got to have." There is going to be that type of dialogue. The staff have got to be very careful. They cannot make the case for the individual, but what they can do is make sure that the file is complete.

One of the things we have been considering—this is in our representation to the government and it gets into the change of any legislation—you never know if an application is frivolous or if there is an abuse of process until you hear the evidence, until the end of the case. One of the things we have been wondering about is whether we should not have the ability by law to be able to award costs and whether those costs should be payable to the board to offset some of the costs to the parties.

We are looking very seriously at that because sometimes there is an abuse of process and we know that. I have had classic examples of developers—you have seen it yourself—who were putting forward a development. A ratepayer group has held them up and said, "We want this and we want that." In fact there was a reported case on this about six months ago where they were demanding of the developer $750,000—and that was in the press—in which case, if they got the money, they would withdraw the objection. The developer said: "Discretion is the better part of valour. We've got to wait this time." I do not know how much was paid, but a deal was made. That is an abuse of process.

Mr McGuinty: Is there any mechanism in place right now which is set up to consider cases before they become the subject matter of an actual hearing to determine whether or not they have merit on the face of the evidence presented in documentation?

Mr Kruger: I will let my colleague answer that.

Mr Colbourne: One of the attempts I have been making, having responsibility for the calendar and the shortage of members right now—all of the members are somewhere every day unless they are off sick or they are having to write some decisions and they have a backlog.

One of the things that I have always been trying to do for the last two years is to get some of the members in for file review and to have a paper hearing up front, if at all possible. In that way, in the consents and the variances, that could, I think, clear out some of those files and perhaps negate the need for a hearing. On bylaw appeals we require that municipalities, the council itself, sit down and consider the objections. My experience is that they sit down and consider the objection in isolation in another council meeting.

It is my recommendation, and I am not sure it has not been successful so far, is to have council meet with the appellants on a particular zoning bylaw and not just have an isolated meeting of council, have a participation again dealing with only the appellants in the particular case. It has been my experience in some of the bylaw appeals that people come without really understanding what they are objecting to. I suggest that we perhaps have either planners or council meet with these people subsequent to the filing of the appeal.

Now, there is a view on that which says the municipality passes the bylaw and then they go out and they try to influence the ratepayer, so it is a two-edged sort of a thing. But I think there is some sort of mechanism in between there where we can perhaps get it back to council, and that might negate some, I am not sure how many, but—

Mr Kruger: My two colleagues would like to speak on it and just before they do, there is one thing that I did not mention. We are seriously considering the concept of pre-trial as well. That is another concept that we are considering. Anna and then Peter.

Ms Fraser: Mr McGuinty, there are some points that I would like to draw to your attention. I know when I joined the board and was considering the matter of the backlog and I started thinking about it, my own analysis was that in the circumstances it would have been more surprising if there were not a backlog than if there were, for a number of reasons. This is the analysis that I have come up with, and I have to emphasize this is a personal one. There are an increased number of acts that the Ontario Municipal Board is responsible for that can generate appeals to the board. If you look at the number of acts over the years that we are responsible for, and you can see them outlined in each annual OMB report, you will see the numbers growing. I think it is 121 acts now.

The land in the province, especially in the southern urban areas, is becoming increasingly developed and there is more redevelopment. This seems to lead to more complex issues being discussed, more aspects that the proponents and the local ratepayers are concerned about, and it tends to generate longer hearings. Even if they only go to a week instead of a week and two days, that gets to be a significant increase over the long haul.

There is more environmental awareness these days. This introduces more complex elements. These are serious questions that have to be dealt with. Again, that can result in the hearing lengths increasing. There was the recent boom, and boom times always generate appeals to the board. Now that we seem not to be in a boom time, maybe that will subside, although there may be others that come up in recession times. At any rate, the boom times do generate a number of development-related appeals and land-use-related appeals. If you look at that together with a decrease in the number of members—I understand it was as high as 38 or 39 members at a time, and now we are down to 30.

I think we have to realize that very few people do knowingly abuse the process. I think there are real reasons why there are large numbers of appeals, more complex appeals and the backlog.

Mr Howden: Just on your question about I guess weeding out at the front end some of the things that should not be in front of us for hearing, I just remind you that in the legislation right now there are remedies of that nature available. One is a ministerial one, and when we get referrals—Mr Grandmaître is nodding his head, and he used to refer some of these to us—of official plan amendments or official plans for the Ministry of Municipal Affairs, the minister has the discretion to say to a person asking for that referral to the board, "I am sorry, you have not satisfied me your objection is not frivolous or vexatious, and I am not going to refer it." They have staff who can look into all of this and make that recommendation to the minister and he can make that judgement. If he does refer, I

take it that means it is not frivolous. That is there, right now. I had said I could assume that.

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On every bylaw appeal, minor variance appeal and consenter severance appeal, there is a section in the act that allows another party, such as a municipality for instance, to bring an application to the board before the hearing, saying: "This appeal has no merit. There are no grounds for this appeal at all." We can hear that motion, and frankly what we have been doing to try to quicken things up a little is, when the notice goes out for that application, often we will couple a hearing with that particular application. In other words, if it fails, if the board says, "Yes, there is merit in this appeal. We want to hear it," we can swing into the hearing right then and there; sometimes not.

Mr McGuinty: What is the turnaround time?

Mr Howden: All I am saying is that the parties can use that right now if they wish to, and do on occasion.

Mr McGuinty: I am just wondering, what is the turnaround time then to bring that type of motion before the board? It is not 13 months.

Mr Howden: No. Mr Colbourne is a vice-chairman. The vice-chairmen deal with these, so I will defer to him on that.

Mr Colbourne: On average when I am duty vice-chairman, there are about five to six of these applications every week; we deal with these motion requests. The turnaround time stretches anywhere from, in that case, 20 days to 40 days.

Mr Kruger: However, there is a problem.

Mr Colbourne: You have to be satisfied on the application that there is merit to put it on for a motion to dispense with the hearing. I mean, there have to be sufficient grounds for that initially up front. Under the Planning Act we can also require further filings on certain appeals up front to determine whether or not we have to hold a hearing. We have that discretion in the Planning Act right now. Offhand, I do not think it is exercised that frequently yet, but it is available to us and they would have to provide us with further documentation. We still have to give them an opportunity to respond to anything, but that is available also.

Mr Kruger: There are about 30 cases of this request; maybe two we would not hold a hearing on. I see all of these in consultation with my colleagues. However, particularly the lawyers out there are aware that this might be a way of getting around the 13 months, so what they do, or they started to do, was say, "All right, we will have this and we will have a hearing follow." No. What we are doing more and more is, we will put the thing on for a motion, but you are going to have to wait your normal time in the queue for the actual hearing. We are doing that more and more, because we are not going to abide their getting around it. This is unfair.

Now, you had one other thing, Peter.

Mr Howden: Mr McGuinty, on the matter of what is in the act now to do with bylaw appeals, variance appeals and consent appeals, I could certainly see some value in your committee's considering further that particular section and setting out some criteria as to what you wish us to use. If you wish to direct us in some way, please feel free to consider that kind of amendment. We would like some direction.

Quite frankly, that section is so cloudy that we are very worried about relying on it too often. It says something to the effect of, "where there are no sufficient grounds." That leaves an awful burden on appointed people, without any criteria, to say to the public, "You have no right to a public hearing because we don't think there are sufficient grounds." Okay? So I think that would be an important duty of somebody with the Legislature, to maybe consider that particular one.

Mr McGuinty: One further question then, please, in connection with this matter. Do you now have the legislative authority to, for instance, set aside a couple of members who would do nothing but hold pre-trial conferences?

Mr Kruger: That is a procedure that is available within the discretion of the chairman, yes.

Mr McGuinty: Are you doing that now?

Mr Kruger: We will be. Again, it is a matter of getting the resources to codify these things, get out to the municipal buyers and so forth to make sure that they understand what we are doing. We are looking at this right now, particularly on assessment appeals. I describe it as somewhat like a sausage factory, where we will have the people who come in for the pre-trial, and we will have members waiting in some of our hearing rooms and they will come up, and the member is sitting there saying: "Look, if you go forward, you can go forward, but you have to meet these tests. Hey, you don't have a hope." This is something that is being worked on by Mr Colbourne.

Mr McGuinty: Will you be able to compel the parties to attend a pre-trail?

Mr Kruger: In our process, what we are trying to do is to get it out to folks. If you say, "Use the legislation to compel them," no. I think we are looking to the point of trying to work out a—

Mr Colbourne: We can just simply issue an appointment and say, "Appear, and we are going to do some pre-trial, pre-hearing conference," or whatever it may be. In the case of the assessment appeals, I established one member as, if I can put it this way, the case manager for four major properties in Ontario, where the members of the bar involved in those applications appeals wanted pre-hearing consultation to establish certain things as they went along to get productions, discoveries and all the rest of the legal mechanisms out of the way prior to the hearing. Our major problem is that section of the bar, the assessment bar, is a very small one and it is very busy since it has all the properties in Metropolitan Toronto and major municipalities.

That includes problems, frankly. The Ministry of Revenue has a shortage of resources in terms of experienced assessors to appear in front of our board to defend General Motors of Oshawa, for instance, or General Motors in St Catharines. There is not that large a bar in the employment of the Ministry of Revenue, either, to be able to handle

seven hearings a week. It is just impossible for them to do, so it is a matter of resources outside as well. But we are trying to manage the files better up front, get them together earlier talking about all these things and not wasting the hearing time.

Mr Perruzza: I have a series of questions and I am just wondering if we can have consensus. Depending on the length of the answers, I would hate to be cut off at 12 o'clock. If the questions go beyond 12 o'clock, would you just simply push back the time we come back this afternoon? Or I will wait until this afternoon to ask the questions. I can wait until 2 o'clock.

The Chair: I have difficulty with anyone going beyond 15 minutes, personally. We can break it into two or three sections. You can get on later on this afternoon as well.

Mr Perruzza: Yes, but I would hate to be cut off in midstride.

The Chair: I am advising you that I am probably going to cut you off in any event. I do not think one member should dominate the floor. I try to rotate it as fairly as I can.

Mr Perruzza: Mr Chairman, some members have dominated for 20 or 25 minutes, but okay.

Mr Bradley: In all seriousness, I am prepared to be cut off.

Mr Perruzza: Okay, maybe we can keep the answers short.

Mr Bradley: That is something that is not going to happen. You will learn that.

Mr Perruzza: Generally, just to learn a little bit about the operations of the boards, it was mentioned by the chair of the board that the members who are appointed to it do not bring to it any specific expertise in zoning and rezoning matters. They bring experience, but they come from all backgrounds, all walks of life. So you have educators, you have some lawyers, and I forget the others.

Mr Howden: Chartered accountants as well.

Mr Perruzza: Chartered accountants, farmers. There was a farmer who was on your board.

Mr Kruger: Planners, architects.

Mr Perruzza: I think that is wonderful. I think you need that kind of thing.

You talked about an 18-month indoctrination or training process. Can you expand on that a little bit? What kind of training and what kind of information?

Mr Kruger: This is one thing that the consultants' report was critical of, and we have not had it. There should be orientation, and it does not matter what walk of life. If you are a chartered accountant, you probably do not know too much about the rules of practice and procedures. You have to know that, because all of our things are appealable to the courts on questions of law, so you have to learn that. So we put a member with a sitting member, and they go around. We try to put them with a variety of these members so that they will get experience on how to conduct themselves. We go all over Ontario and we do that. To get to the point where they could take on a consent or a variance by themselves and do a proper job, it generally takes about nine months.

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Then we will start them on more involved hearings, a zoning bylaw or something like that, depending on the experience of the member. That is going to take them up to about 12 months. They are starting to be an experienced member, and that means they can chair one of these things themselves. Heretofore, they would just be a member of it.

You have about another six months before they can chair the more involved ones. It depends on their experience. Anna, as an example, with a dual background, having worked in a municipality, being a planner, being a lawyer, having practised outside, is now taking a very involved thing in Alliston of 20 days on official plan and zoning. She can do that; there is the odd member like that. But the mere fact that you may have practised before the board is no criterion that you will be able to conduct a hearing.

That is generally what occurs. The other thing where we are falling down is that our members should be going to seminars, on environmental matters, for example, or on changes that are being contemplated. Mr Crombie, for example, is contemplating the greening of the Planning Act and things like that. We should even once a year have people come in to teach them how to write a decision, so that is all a part of the training.

Mr Perruzza: They act and behave like judges but they are not really judges trained in law and do not deal only with the legal issues related to a particular appeal.

Mr Kruger: That is right. They have to have ability.

Mr Perruzza: How much does it cost for someone to appeal a municipal decision to the Ontario Municipal Board?

Mr Kruger: It is $125.

Mr Perruzza: So virtually anybody who takes an issue to a municipality can afford to take a decision—

Mr Kruger: That is the access to justice rule, yes.

Mr Perruzza: You talked a little about sensitivity to ratepayers and citizens who appear before the board without a string of lawyers attached to them. Can you expand on that a little? Sensitivity in what sense, in simply hearing them out or in weighing their concern?

Mr Kruger: Mr Howden put it well, and I think it deserves repeating. Everybody who comes before us has a point of view. You have to listen to it and you have to try to get out of that point of view—there is a kernel somewhere.

If you ask the average individual, I think any individual ratepayer is an expert on a road. They know if it is straight. They know where it is going. They know if they want it or do not want it in their neighbourhood. They know what they conceive the traffic is going to be like. They are an expert on their communities. If you put that large building in our community, it is going to disturb the structure of our community. You are an expert on that. This is very important evidence for the board.

Mr Perruzza: You have concerned ratepayer X who understands his community very well—I am thinking of the city of Toronto, an appeal in Toronto, because the urban environment is what I understand best; it is where I have always lived—who has a concern. You have developer X before you who has a municipal decision, and the municipality has provided a considerable amount of factual detailed information related to a specific application, all kinds of professional reports, legal reports, transportation reports, sewer analyses and some social service reports, with a string of lawyers. You will have also the developer's consultant reports. They have been able to go out and seek professional and expert advice and provide a considerable amount of information before you.

What I am trying to say is that ratepayer X understands his community and says: "I can't drive down this street during these hours. I have to wait in a lineup for an hour before I get from this point in the road to that point in the road during peak hours." But you have a transportation report which says: "Hang on a minute. There's plenty of capacity. We are not at full capacity on this artery." It has been generated through a process with some political influence. You cannot get away from that in a municipal environment, especially in the development industry and the development environment as well.

Mr Kruger: That is right.

Mr Perruzza: How would a board member deal with that, not being able to go outside and commission your own reports? This ratepayer cannot afford the $50,000, $70,000 or $100,000 it requires to refute all this hard physical evidence that has been provided by a considerable number of consultants and experts. How do you deal with that?

Mr Kruger: I will start at this end of the table and then I will finish up, because I had that experience consistently as the chief administrative officer of Metropolitan Toronto, so I know whereof you speak.

The Chair: We will let you answer his question. Then we are going to break for lunch, and Mr Perruzza can continue his questioning after.

Mr Howden: I will just tell you off the top of my head what occurs to me. First, this is where some experience does come in. It has to. If you know what to look for from a traffic expert, for instance, and some of the analysis you have seen or have not seen in this particular case, you know what to ask him at the end of his evidence and draw out if there are deficiencies and what they are.

The other point, though, that I think has to be made is that I think you underestimate some of the ratepayers, especially in this city. Many of them are well organized. They do not have a lot of money but they do an awful lot of work preparing for these hearings, believe me. They go through these reports often and do help in our weighing that evidence in terms of questions they are able to ask or points they make themselves which we then insist on the experts answering, which they may not have done in the first place. It is always surprising to me that after this process you talk about, many people—and these are neighbours—come in front of us and say: "This is the first time we have ever heard any of this explained to us. This is the first time we have been able to ask a question about why they think traffic can be handled."

All of that I think you have to bear in mind, the experience of the board members involved and the involvement of an informed public. Sometimes they are not, I agree. Sometimes they just come and say, "Look, I've got a problem." Sometimes the developer wins because he has prepared very well and has addressed all of those concerns. But I think it is the board's job to make sure that those ratepayers who come and raise those points get them answered. If they cannot be and if they are significant, then the developer loses.

That is part and parcel of the whole process. It is very difficult when you have one group over here and another group over here who are affected totally differently from each other, and a ministry or two involved, saying, "We've got policies," plus the developer, plus the municipality, which may or may not have approved that bylaw. We get people who do not succeed at the municipal level as well; the municipality is fighting it. So you get all shapes and sizes of circumstances, and all I can tell you is that we do the best we can to bring out of all that what are the matters of significant public and neighbourhood interest and see that they are addressed.

Mr Kruger: A ratepayer has the right to seek status before the board, where he has the right to cross-examine these people. If they have a thought in mind, quite often they will start into their cross-examination. Maybe they do not even know what they are starting, maybe it is a bit of a fishing trip, but they have every right to do that. It is very important for the board to listen to what is coming forward, because they have the right to make submissions as well. They are not limited at all. Anna, do you have anything?

Ms Fraser: I can confirm what Peter Howden has said based on his years of experience on the board, from the point of view of somebody who has worked both as a city planner and who has been active in ratepayers' groups, as well as somebody who is active as a lawyer. You cannot underestimate the efficiency and the sharpness of mind of the ratepayers when they are looking at consultants' reports. When an issue is brought up by them, I think you will find that the board members query it and investigate it further. There often are municipal representatives, for example, councillors and aldermen, who go to bat for ratepayers' groups and who will appear, sometimes in support of what their council has proposed, sometimes against what their council has suggested. The professional planning staff with the municipalities have a professional obligation to give their opinions, not just what they are told to say by their councils but what their professional opinions are, and they can often be extremely helpful to the ratepayers in explaining these matters.

Something I also agree with Peter about is that it is amazing how often you have people say that they did not hear it before, they would have appreciated a fuller explanation at the local level, something like that. Sometimes you hear people say, "If I had understood that, I wouldn't be here today." Perhaps, as Mr McGuinty says, this goes to

the pre-hearing matters, the narrowing of issues, the explanation of things and the full exchange of reports so that people have as much information before the commencement of the hearing as is humanly possible.

Mr Kruger: I would like to touch on that one point. The ratepayers have access to the reports that come forward. They are public documents. It is not uncommon to have before the board a position of council and a position of the land use planner that are entirely different. The ratepayers know that and will use that to their advantage.

Mr Colbourne: Briefly, in the worst-case scenario in the major hearings, the exchange of reports is in a lot of cases not done in advance of the hearing. In the worst-case scenario it is done at the time the witness is going to be examined. In the railway lands hearing, as I indicated, we have three individuals who do not have formal party status but who have been there all the way along, and every witness has been examined by these individuals.

In advance of the hearing, I know the concerns of those individuals and the areas of concern they have from their pre-filings, because every application arises from an appeal or an objection filed by a ratepayer; every municipal council decision we get does. So we know the nature of their concerns, and once they start to examine a particular witness called by the developer and/or the city, as the case may be, we can build on that with them to get a real response to their concerns.

In my experience, which is fairly significant over the years, I do not think I have ever been accused of cutting anybody off or lacking recognition of any particular concerns, nor do I know of many members who have had that. Individual applicants have been offended by an ultimate decision, but it is a 50-50 win situation, in any event. I do not think we have been unduly criticized for that lack of sensitivity.

Mr Kruger: Just to finish off, I would like to say that we are going more and more to the pre-filing of all written evidence, whatever is going to be the evidence of experts, so that when you start a case there are no surprises. We are not involved in murder trials. We are involved in trials where there should be complete disclosure by everyone. I just reinforce that the ratepayers out there are not dumb.

The Chair: We are going to break for lunch. We will resume at 2 o'clock with Mr Perruzza continuing his questioning. At this point, I have five other members on my list.

Mr Kruger: Just before you retire, are we on deck again tomorrow?

The Chair: Unless we can abbreviate the responses, perhaps, and be finished this afternoon.

Mr Kruger: We will try our best.

The committee recessed at 1204.

AFTERNOON SITTING

The committee resumed at 1405 in committee room 1.

The Chair: If we could come to order, we will continue.

Mr Perruzza: Thank you, Mr Chairman. Just to follow up a little bit on where we left off, essentially we were talking about the board and how it deals with the information and the evidence that is before it when it is in the process of adjudicating a decision. Some very good and useful information came out of the last exchange where some of the board members and the chairman of the board indicated that a lot of the community groups and individuals who appear before the board without lawyers and without having generated extensive professional reports to substantiate or defend their position and their claim are duly being considered. That was in a way reassuring to hear. However, I do not know in practice, and maybe this is something that we can go into at a later date in a little more detail.

I want to wrap up very quickly and I have two questions. In our binders we have a list of the appeals that the board deals with, and I want to know from the chairman of the board, if he has the information, in regard to the major applications that have gone to the board with a particular municipal position, how many times a decision has been reversed, refused, turned down by the board. What are we talking about percentagewise—50%, 80%?

Mr Kruger: That is one of the statistical pieces of data which we do intend to keep in the future. We do not keep it. I can tell you by sight of the appeals. I read all of the decisions, of course, as they come out, and it seems to me that in at least 50% of the cases a person who appeals will win. This is particularly so in the cases of consents and variances.

Mr Perruzza: Hang on a second. I am not talking about the variances or the minor zoning bylaws. I am talking about the major decisions, the big developments that come before the board. How many of those are actually turned down by the board?

Mr Kruger: Rather than turned down—and I would also have my colleagues comment on this—as a result of the evidence that comes forward, there are changes that are quite often made.

Mr Perruzza: That was going to be actually my follow-up question, but I wanted to know if any have been reversed or turned down, say, within the last two years—outright refusal of major development applications.

Mr Kruger: Any outright refusal? Yes, let me give you a case, the West Carleton hearing which went on. This is where there were wetlands involved and a developer wished to build a golf course. That was fine for most of the holes, except four of the holes intruded on what were wetlands. That was a major hearing, and that particular bylaw was turned down. That occurred a couple of months ago. There is also Sydenham, the cases of consents, and Mr Murdoch would be aware of these, where there was a development that was turned down, again based upon the evidence that came forward.

There is one thing perhaps I should also say for further information. Anyone who comes before the board is sworn and, if there is a gap in the evidence, we have the power of subpoena. Normally we do not have to use that, but we have made it clear to the ministries, if there is a gap, we will not hesitate to use that. But most of the ratepayers would do it. So those are two that immediately come to mind where there was an outright turndown.

Mr Perruzza: These are bylaws that were passed by the municipality or the regional council and reversed by the Ontario Municipal Board.

Mr Kruger: Yes, that is right.

Mr Perruzza: Okay. My follow-up question would be the frequency of change and to what degree are there changes in the kinds of decisions that come from municipal councils. I guess we look at a minor variance that comes from a committee of adjustment and you were saying that is about 50%.

Mr Kruger: About 50% of those who appeal.

Mr Perruzza: Complete reversal.

Mr Kruger: Yes, they would be successful on appeal. That is just by a sight, a look. These are people who have applied to the committee of adjustment and for some reason were turned down at the committee of adjustment.

Mr Perruzza: Okay, the people who have been turned down. How about the decisions that have been approved by the committee of adjustment that would come before your board and are actually reversed or turned down?

Mr Kruger: I have no figures. It would have to be from memory of the individual members. We can canvass them right here and now and just see if they can be of any help.

Mr Perruzza: If we can get a rough estimate or a rough idea. My other question is actually fairly detailed or specific. The ones that have been altered or changed, to what degree? You receive a decision or a recommendation that has been put forward before you by a municipal council. You have an applicant. You can refuse it outright or you can modify it. To what degree? Do you generally try to find a middle ground for both parties?

Mr Kruger: Yes.

Mr Perruzza: On the ones that you do vary?

Mr Kruger: It depends on what is before us. Let's go through the members and see if they can try to answer those questions.

Mr Howden: My problem is that I am having trouble with your assumptions. You are assuming what? Just give me what you are assuming, because this is only a bit, a part of the work we do. We get all shapes and sizes of things. These are just ones where the municipal council has approved?

Mr Perruzza: I am trying to understand the role that you play and I guess my questions have all been directed—

Mr Howden: But you are assuming only part of our workload. As soon as you say "ones where municipal council has approved"—that is just a part of the bylaw appeals that we do. Some of them have been refused by municipal council and they are fighting it before us, you see. You are taking out part of our workload as soon as you make that kind of assumption of only taking the ones where the bylaw has been passed. Did you mean that or not?

Mr Perruzza: I know the ones that municipal councils have turned down and the reasons why they turned them down or I have a general idea as to why they do that.

Mr Howden: I doubt that you do.

Mr Perruzza: I purposely excluded that part of your work.

Mr Howden: That is on purpose. Okay, as long as you understand that you are just narrowing it down to one part of what we do. So you want to know about the ones where a municipality has passed a bylaw to allow a development, how many of those have been turned down or changed in some way.

Mr Perruzza: In rough numbers, percentages.

Mr Howden: I cannot. I do not know. I wish you had told us beforehand. We could have got you that. All I can tell you is that I have dealt with everything, for example, the North York official plan which covered the whole downtown area. It was not just one development. We refused to approve it until about 10 different things were looked after and dealt with seriously in that official plan. You can call that a turndown or you can call it changing it. I do not know. I just said, "In effect, we do not find this acceptable until you do one, two, three, four, five." They did, they came back and then they proved why they should be allowed to modify it in certain ways.

The Rosedale subway station again is a difficult case to categorize. The municipality was trying to zone it so a development by the TTC would not go ahead. We upheld the city of Toronto on that so that a major office building that the TTC wanted to put in that sort of park area at the end of the central area did not go in. But we were caught there between a municipality saying no and a developer, another public agency, by the way, that wanted to develop.

I am having trouble with the categorizing that you are doing. Basically, we do allow some appeals and repeal certain bylaws, but I cannot give you numbers. All I can tell you is for the people who were involved they were all major. If you just mean Toronto when you say "major developments"—is that where you are narrowing it down to, just Toronto?

Mr Perruzza: Not necessarily. I suspect that the more rural communities and other urban centres have their processes as well.

Mr Howden: Yes.

Mr Perruzza: I am just trying to get an idea.

Mr Howden: Sure.

Mr Perruzza: I put these numbers before you, these appeals that are before you, and I guess the numbers—

Mr Howden: I think you are entitled to that. We can probably get that information for you. If you want a percentage, I am sure they can get that information for you.

Mr Kruger: It would be my assumption from looking at them that the number of times outright that we overrule a council and say, "That's bad. You can't have that," would be really the exception. The number of times that we would say, "This has to be modified. There isn't enough on this and you should look into this and you should go back," that is what I would say in about 90% of the cases. When we come into conflict with—

Mr Perruzza: Can I just stop you? When you say that, what do you base your evidence on?

Mr Kruger: Planning evidence.

Mr Perruzza: And that is to say that the council has not duly considered that evidence.

Mr Kruger: Sometimes.

Mr Perruzza: That is what the assumption is, correct?

Mr Kruger: Yes, that is right.

Mr Perruzza: In your opinion, for what reasons?

Mr Kruger: It has to be consistent with the act. It would be for good planning reasons; it would be for other evidence that might come forward from a variety of sources. It is different to a council. These witnesses who come before us are put under very rigorous cross-examination, so you test the evidence.

It is not uncommon, as I have already said here before you today, to find that the planning department may have a different view to the council on something. We have to weigh why is that so. Outright turndown is seldom it. What we would say is: "There seems to be this deficiency. Could you look at that?" We see so many conditions. Generally, at the end of the day you will find that the counsel for the municipality generally is not bucking that. They will generally say: "That's fine. We will get back." A lot of these things end out by consent at the end of the hearing.

Mr Perruzza: It would be interesting to see some of the data. My last question is not along that line at all. You mentioned earlier, and it related to how you prioritize and schedule your hearings, that you give affordable housing precedence.

Mr Kruger: That is number one.

Mr Perruzza: Are there any other criteria? Are the rest of the appeals first come, first served?

Mr Kruger: No, not necessarily. As I said before, it depends on the hearing. Is it going to have an effect upon the recession, employment, things of that type? Where it is located? The complexity of it, the number of objections out there. How long is a hearing going to take? We have to spot that into our calendar. Is it going to be a thing where I need really experienced members on it or could newer members take it?

There are a variety of interconnecting factors that have to be brought together. It is no such thing. As an example, what we have right now is the Etobicoke hearing. We had representation by both the government lawyers and the lawyers for the municipality, "Let's have another pre-hearing,"

and so forth. But we also had representation from other people at the hearing who said, "No, set a date," so we set a date for it. The consideration of that was the availability of the members, how long it was going to take and just where this would come. It is a very important development. It is going to set the mood for right across the waterfront. All of these things are balanced.

Mr Perruzza: It sounds like the decision has been made already.

Mr Kruger: What on? On Etobicoke?

The Chair: Mr Perruzza, I have been pretty fair with you because of your concerns expressed earlier. I would like to move on to other questioners and give you a chance later on, if you are finished now. I am going to cut you off now in any event.

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Ms Haslam: This is just a supplementary that Mr Perruzza has brought up. Is there any particular case that would be pushed back and pushed back because other things have come forward that are more important?

Mr Kruger: No.

Ms Haslam: Is 13 months a very—

Mr Kruger: It is standard, yes.

Ms Haslam: Okay. There is nothing that has maybe gone on beyond 13 months.

Mr Kruger: Except if adjournments were necessary and the parties to it could not get there.

Ms Haslam: But it is within 13 months.

Mr Kruger: Yes.

Ms Haslam: It has caught some sort of the process.

Mr Kruger: That is right.

Mr B. Murdoch: I have got about four things here, but most of them are pretty quick, I think. I know you expressed concern about getting new members at the present salary that is being offered, and I would just like to say that by looking over the list, I am sure if you had some more rural members on the board, maybe like farmers with the qualifications, at the present day's salary I am sure they would be glad to take the job.

Mr McLean: Provided they were qualified.

Mr B. Murdoch: Well, provided, but I am sure there are a lot of farmers out there. One whom I know of is well-qualified, and I know of other ones who would be.

Mr Kruger: That is right.

Mr B. Murdoch: They would be happy to take that salary, so I do not think there would be any trouble there.

Mr Kruger: We need balance, of course.

Mr B. Murdoch: I was going to say, though, that I notice a lot of your work is in the rural areas with severances and things like that. Some of these people would be quite qualified.

Mr Grandmaître: You are committed for three years anyway, Bill.

Mr B. Murdoch: You do not think I can get this job, then. Okay. Well, all right. I was just getting a plug in. The second one was, I was glad to hear what you said about lawyers at the hearings. Now, I can go back—and I have been involved with the Ontario Municipal Board for quite a while—and I can remember some OMB officers chastising people because they did not have a lawyer there.

Interjection: That is terrible.

Mr B. Murdoch: I know. I thought it was terrible at the time, so some of my impressions of the OMB were not as good as maybe they should be.

Mr Kruger: I am delighted they have improved.

Mr B. Murdoch: That is what I was going to say now, and with your comments today, that is good to hear. But I think somewhere along the line you are going to have to get this message out to municipalities, especially in the rural areas, because being on AMO, I would be surprised if I would talk to anyone over there when I was at a convention if they were going to have some of their people go to an OMB hearing, regardless of what it was. I would they suggest they take a lawyer, because I always have. Any constituents that I had, they would say: "We've got an OMB hearing coming up. What are we going to do?" And I would say, "Get yourself a good lawyer first or there is no sense going." That has been my experience.

Mr Kruger: That is a valid point. The communication of the board, Mr Chairman and Mr Murdoch, I must tell you, as to the things we do and getting out into the communities we serve, has not been what it should be. That is why I was talking about focus groups, bringing our procedures to AMO and places like that, asking them for their input. Not that we have not been conscious of it; we just have not had the resources to be able to do it. But that is a valid comment on the board.

Mr B. Murdoch: I would like to see you at a panel at AMO or the Rural Ontario Municipal Association or some of those organizations, because in the past the past chairman had been there but I found him quite unfriendly towards the municipalities.

Mr Kruger: I have been invited by AMO, the Ontario Good Roads Association, the committee of adjustment group. I am going to be out travelling quite a bit.

Mr B. Murdoch: That is what you need, because if this is true and you do not need a lawyer—in a lot of cases, I do not think people do, but it is unfortunate they feel that they are going to have to hire a lawyer to go to fight the case too. It adds a lot of money.

Just in that same instance then, we talked about $125 to appeal. Not necessarily all the time does the person who is appealing have to pay this. I maybe should clarify that for Anthony, because he mentioned that, "How much does it cost for somebody to appeal a hearing?" You talked about putting it up. I would not have any problem with that, either, but in some cases if a developer has put in for a development and the municipality has approved the rezoning and someone appeals the rezoning, the developer or the municipality—it depends—has to put up the money, not the person who is appealing it.

Mr Kruger: Yes, that is good.

Mr B. Murdoch: I do not know whether that is right or not, though. There are some times I do not feel that is right.

Mr Colbourne: Excuse me. If I can interrupt here, the current proposals seek to change that position. The municipalities do pay on bylaws and official plan amendments that they have instigated and somebody has filed an appeal. They do pay now the $125. There is a proposal to change that; the appellants would pay.

Mr B. Murdoch: That only sounds right. If somebody does not like a decision that a municipality or someone has made, then maybe he should pay, because I know in severances the person who wants to appeal pays the money.

Mr Kruger: Yes, right.

Mr B. Murdoch: I just wanted to make that clear, because it did not sound that way.

The last one, and you maybe can explain this to me, because I have never heard of it before, is that if somebody has appealed a decision for a hearing, you mentioned that the municipality could apply to have that hearing dismissed on the grounds that it was frivolous. I did not know about that.

Mr Kruger: To the board. Yes, you can do that.

Mr B. Murdoch: Can only the municipality?

Mr Kruger: No, anybody. An individual can. In fact, it mostly comes from individuals. That is under the Planning Act.

Mr Grandmaître: I would do it automatically.

Mr Kruger: You would.

Mr B. Murdoch: I know people can appeal the decisions.

Mr Howden: The bylaw, subsection 34(26) of the Planning Act, talks about it is not narrowed down to just municipalities. Any party can bring the motion to have a finding made that there should not be a public hearing because of lack of grounds.

Mr B. Murdoch: That was new to me. That was interesting to hear, because I know probably some municipalities would like to ask that sometimes.

Mr Howden: We do not cut off people's right to a fair hearing of course just like that either, but you do have to show that the objection is either frivolous or completely groundless, or we have no jurisdiction to deal with it, that kind of thing.

Mr B. Murdoch: I do think, though, that some time somebody should stand in in a lot of these cases, and they are frivolous objections. The minister can also do that, can he not?

Mr Kruger: Yes, the minister can.

Mr Howden: On official plan amendment.

Mr B. Murdoch: Yes, sorry. We are talking about official plan amendments. The Minister of Municipal Affairs can. I know they do not, but it would be nice if they would.

Mr Kruger: I am finding that, more and more, that section of our act is becoming known to participants and they are writing letters to us asking that this thing be put aside because it is frivolous. That is probably in part due to the length of time it takes to get a hearing.

Mr Fletcher: First, let me say that from a lot of people I have been talking to, as far as the OMB is concerned, your reputation and what people think of you is not very high. They think you are just another slime organization in the back pocket of developers and municipalities and that there is no sense to even try to go to the OMB. That is a perception. That is not my perception. I have met you and you look all right to me so far.

Mr Kruger: I am delighted to see that there is no slime on me anyway.

Mr Fletcher: That goes along with what Mr Murdoch was saying about your perception in the public.

Mr Kruger: I would not dispute that. There has been a perception out there at times that we might have been perceived to be a developers' board. What people do not realize is that we deal with as many environmental matters as probably any other board.

Mr Fletcher: I understand that. I have perhaps three questions. I was just looking at the makeup of the board. As Mr Murdoch was saying, it is nice to see the odd farmer thrown in. I do not see as many environmentalists' names in here. In fact, I do not see any at all.

Mr Kruger: When you say environmentalists, I just happen to have one member of our board who came from the Environmental Assessment Board, Mr Eisen. He is a lawyer. The people who are here with me today, when you say environmentalists, I think nobody would dispute that they themselves have a very strong feel for the environment in the hearings we are having.

Mr Fletcher: Let me clarify that: environmental activist, rather than someone who has a strong feeling.

Mr Kruger: Activist? We cannot be activists.

Mr Fletcher: A lawyer is an activist.

Interjection: You are not here to argue.

Mr Fletcher: I am not here to argue, I am just getting questions, you are right.

Mr Kruger: There is a difference between an advocate and an activist.

Mr Fletcher: Okay. That is great. When you hired your consultant, did you say the cost of that report was $125,000?

Mr Kruger: That is right.

Mr Fletcher: And that was just that the consultant came around and asked everyone on the board or all people involved with you.

Mr Kruger: No, the consultant did extensive interviews with the municipal bar, with other levels of government. They spoke with AMO. They did a fair amount of research.

Mr Fletcher: When you look at the OMB—I want this to come from you, not from anything that is written—what do you see as the function of the OMB, as far as you are concerned and as far as the public who use it are concerned?

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Mr Kruger: In a capsule form, the OMB is an adjudicative board that operates in an adversarial environment. When you come to the board, there is a winner or a loser. We deal with matters that primarily are associated with land use, but that touches all things, socioeconomic—it touches everything that might be associated with lands. It touches group homes. It touches everything.

Mr Fletcher: I know what it does technically. I am asking what do you see the board—

Mr Kruger: I see it as a board where the average citizen has a right to come without legal counsel to be heard. I see it as a source that if they feel they have been disadvantaged through some process of a municipal council, they can come to the board. Everything we do is open. There are no secrets.

Mr Fletcher: One more question. Is the board fulfilling what you have just told me?

Mr Kruger: At this point in time?

Mr Fletcher: Yes.

Mr Kruger: Yes. I think the board is fulfilling that but, and I have admitted it, we have not got this message out as to what it is about. We have to do a much better job that way. We have to improve, internally, our product. We have to have better case management. I think the position we have started on by expanding the membership of the board to touch more communities, we have to do that.

One of our great problems is there are quite a few people who would like to come on the board, particularly women, and several of them are perfectly bilingual, but they have young families. To be on this board, you have to be willing to travel all over the country.

Mr Fletcher: Take your children with you.

Mr Kruger: That is a bit of a disadvantage to certain people. We try to accommodate that as best we can, but it is a disadvantage.

Mr Fletcher: Supply day care.

Mr Silipo: I would just like to say before I ask a couple of questions that I have that I am not sure what the perception from Mr Kruger and the other members of the board who are here is in terms of some of the questions that have been asked, but I just want to make it clear that at least from the people sitting on this side of the table, the questions that have been asked represent the particular perspective of the individual members.

Mr Kruger: I understand that.

Mr Silipo: I wanted to just pursue a couple of questions. The first few actually have been asked in various ways and I just want to sort of clarify that I have understood and perhaps pick up any additional comments.

Although I know that there was a concern expressed around the salaries of the members, I think there was an additional comment that was expressed, particularly around salaries of the staff people. Did I understand that?

Mr Kruger: Yes.

Mr Silipo: In fact, I wanted to hear a little bit more about that second part.

Mr Kruger: About the staff salaries?

Mr Silipo: Yes, because I was concerned about the problems that you identified.

Mr Kruger: We are in the process of attempting to correct that. The consultant's report pointed out the inequities in the salaries and said, "You have to do something about that."

What we have done in our submission to the government on our estimates for this year, and we have discussed it with the Human Resources Secretariat, is looked at the job requirements of these people. We have gone through it systematically and said, "Well, that job should be rated by such and such," and that is now being incorporated into our estimates, which are on their way to Management Board of Cabinet. So we are in a corrective mode, if you will, to bring that forward.

Mr Silipo: I asked because I wonder whether it may be something that would be useful for this committee to have some information on, to see whether there is a role we can play to assist possibly in that.

The other area that I also wanted to just clarify is this whole issue of the membership on the board as a career path, as opposed to something that I guess might be, in general terms, called term appointments or whatever other way one does it. Am I understanding correctly that from your perspective as chair and members of the board, you are saying that there is clear merit in a board like the OMB—in our, in effect, having appointments to such a body being viewed very clearly as career appointments?

Mr Kruger: Absolutely. As a matter of fact, the members on the board, who are here, if you want to hear from them individually, can tell you from their own personal experience just how strongly they feel about it and why they feel it.

Mr Silipo: It is the "why" that I really wanted to get into.

Mr Kruger: All right. They can tell you their experience of how they got on to the board and what their perception was in coming to the board.

Mr Howden: I just want to make two points, I guess. First of all, I was a litigation lawyer in Barrie before I came on this board. Unlike Mr Fletcher's perception, I acted mostly for ratepayers' groups, people who were outside the system in regard to this board and in regard to a number of other boards that I appeared in front of.

I had a lot of clients and I had a lot of other lawyers referring cases to me, and frankly, my practice was doing quite well, almost too well. But I wanted to do something in the public sector, finally. I had had 20 years or so of law and I thought I had really done as much as I could as an advocate. I wanted to start having some say in the decisions in this province and I was attracted to this board because of the public interest aspect of it. This affects communities, neighbourhoods, environment, all of those things, and I feel very strongly that this, for me, was a career move, maybe for the rest of my career; certainly the public service probably is, in one way or the other. I would not have shut my doors if it was for three years, I will tell you that right now. I think we need much more of a commitment

than just a three-year appointment for somebody like me or Anna or some of the others from the private sector to come in.

The second point is I appeared in front of five other boards while I was a lawyer. I can tell you that I could probably serve effectively on any one of those other boards—and I will not get into them; I just am telling you the difference in the range demanded of the person—fairly adequately with a day's work.

I have appeared in front of at least—well, I will give you another number. Those were specific appearances where I did my homework, did okay for the client, in fact went back to one board several times because we were successful. But it really did not take the kind of preparation that it takes to work on this board, where the range is across all of expropriation law; all of assessment law, on which whole texts are written; all of planning, which is more an art than a science and which requires a definite feel and sensitivity to community values which just cannot be taught, and—what was the other? Anyway, that is what I am trying to convey to you. There is a range here that is more like a person in a court, where your experience as you go on continues to fortify you for the next cases that you are going to deal with. It is an accumulative process and I would hate to see that lost every three to six years.

Ms Fraser: I realize that at a forum like this you do not necessarily want to reduce things to the personal level, but sometimes personal backgrounds can be useful and it might be useful to some of you, just as Peter has told you a bit about his background, for me to tell you a bit about mine. I have been referred to by our chairman as being a fairly recent member, and it is true, I am. I feel like one of those people whom you hear as being an overnight sensation at something when they have actually been slogging in the trenches for 22 years.

I worked with the provincial ministry. I was with the Ontario Housing Corp from 1968 through 1972. Then I was in the non-profit co-op development field for a couple of years until the federal government changed section 45 of the housing act and we lost all the money, which happens in the non-profit co-op sector from time to time.

I was then hired by the city of Toronto as a city planner. At the same time that I was doing that, I was a community activist and wrote the funding brief and established the South Riverdale Community Health Centre, which is going to this day. I also was the planner who was responsible for the area with Canada Metals in it. I became keenly aware during that time that there were extremely difficult problems that I could not deal with as a planner solely, nor as a community activist, and it was at that point that I decided to go to law school. I had always wanted to serve the public and feel useful in the public sector.

I worked with private law firms for a number of years, always with the ultimate goal of wanting to feel really useful and try to make a contribution, because I think it is a great privilege to be able to work on behalf of the public in a truly responsible way. I was never quite sure what shape that would take, but when the opportunity came and I was made aware that there was a possibility of joining the board, I realized that would be a very good time to do it.

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As our chairman has mentioned, many of us who join the board do not join as 25-year-olds. We tend to join in our late 40s and our 50s. In part, that is because you need a fair amount of experience under your belt to be able to deal with the complex issues. I like to think that I am more useful now than I would have been when I was, say, 27 or 28. I hope that as a person who is going to be 50 this year, I might bring more to the board than I could have 20 years ago.

I was on the point of being made a partner at a major downtown law firm. After I had expressed my interest in joining the board, the request to submit myself for interviews coincided exactly with when I was being made a partner. It was a crucially important decision for me to make. I did not hesitate once I had looked at what I would be doing, and that was a major decision for me to make. I never seriously thought that it would simply be a three-year appointment, partly because I was told the matter was under review. Also, it did not strike me as being sensible that anybody would be brought up to speed and then told, "Oh, well, you can go off and do something else now," because it is a terrific investment that has gone by the board.

You also, I think, tend to join the board later when maybe your responsibility to your family diminishes. I am a great believer in day care. My son who is 19 entered day care when he was first four or five months old at the Canadian Mothercraft Society. Then he was up at the day care centre at Jesse Ketchum until he was 10 years old and thought he was far too old and sophisticated to still be there. My family jokes that I am allowed home on 48-hour passes now, from Friday night until Sunday night. Day care is not sufficient if you are off in Thunder Bay and your family is in Barrie or Sudbury.

I am taking too much time, but I wanted to give you a little bit of insight into how one of the women members of the board got on the board, why it is a career decision for me and why I want to maximize my usefulness.

Mr Colbourne: I am perhaps one of the two exceptions on the board. I was appointed in 1968. I am a chartered accountant by background. At the time, I had articled with a major CA firm in Toronto, an international firm, and was about to enter into a partnership with a smaller CA firm in the municipal finance field. I was appointed in 1968 for that particular purpose. We have a major role to play in the finance and control of debt, so far, for municipalities in the province. I was brought on for that particular purpose.

By way of background, my father was a carpenter who developed into a home builder, who developed into what some might call a developer now. He was a very modest developer. I had some familiarity with the planning background therefore.

My background as a CA has helped me, I think, on the administrative side of the board. For the last three chairmen at least, I have been involved in the administrative section, looking after, initially in 1983, the major backlog of assessment appeals. There was a special team of the board that was put together to clear the backlog that was

neglected by the county court. That has been one of my particular interests, and now, with the latter two chairmen, being involved in the calendar.

Being a chartered accountant, I do not come with a background of law, but I have sure developed some background and some experience in the law field, to be able to handle the motions that are put before us on sort of a daily basis. I am not sure I made the career decision at that time. I looked upon it as an opportunity, making a choice between a partnership and the services I saw on the board. I have, I think, grown in the role and I have thoroughly enjoyed the role of a hearing officer, if I can put it that way, much more than the administrative side. The administrative side has its problems. I enjoy the participation in the hearings. There are two of us who have been there 22 and 21 years respectively. We made it a career.

The Chair: I just want to say that I understand the strongly held views of the members of the board on this particular issue, but I want to say too that those answers took up a significant amount of time. Obviously, we cannot attribute any of the backlog to this sort of wordiness, can we? Excuse me, please.

Mr Kruger: No, Mr Chair, I hear and as chairman I will be mindful of your admonition.

The Chair: We appreciate how strongly held your views are on that particular issue.

Mr Kruger: Very strongly held.

The Chair: As I said at the break at lunch, I would encourage you in the remaining time left, if we wish not to have your presence here tomorrow, to try to be as concise as possible.

Mr Kruger: We will try to be incisive and quick.

Mr Silipo: If I have understood the sort of general discussion around the OMB in terms of generalizing the two perspectives, those that strongly support the continued existence of the OMB I think generally see that it categorizes the need for its continued existence as being a place sober second thoughts, where the average citizen or group or municipality, as the case may be, will have an opportunity to sort of further its particular position and make sure that everything is being considered properly.

On the other hand, there is the view that says that really the OMB ought to either not continue to exist or its powers be severely curtailed because it is no more than supplanting the rights of the elected councils. Can you talk a little bit about it. Obviously, I am assuming from the kinds of things that we have heard that you obviously see a need for a continued role by the OMB, subject obviously to the kinds of things that you have said. But I would like to hear what other comments you have on those two perspectives.

Mr Kruger: Yes, it is quite valid. I know there was a time in my career when I was an elected member of a council. I had a love-hate relationship with the board; I must admit that. I had my speech number 34 that I used to pull out in hate of the board, but let me focus it on the type of hearing and what is going on in this community generally.

If you have an affordable housing hearing that comes forward, particularly in the time now that we are coming up to municipal elections, a lot of the appeals that are being made to us are where the municipal council for some reasons, ratepayer reasons in the area, may have turned the matter down on a pure political basis.

In those hearings that come forward, we hear from representatives of the public who might not have had the type of hearing airing they felt was necessary. Now, we do not approve every one of these. There is a provincial policy which we must give weight to. It does not say that just because there is a housing policy, we are going to override everything out there. It is not. In fact, I have turned down—not I but the board has turned down—two cases recently. It is almost, in a way, if we approve it, we hear from the councils, and yet we have had some members who have been approached by council members after at some other hearing who said, "You know, politically, we just couldn't have put that through, but it was the right decision."

On the other hand, if we turn the request down, we hear from the advocates that we have done the wrong thing. So we are caught in the middle and the only way you can survive in that type of environment that you have to have integrity and you have to make sure all the facts are out.

Unfortunately, it gets beyond just land use planning; it gets into socioeconomic values. After all, the government of the day sets forward policies, and as I say, we must give weight to it. So there is an argument to be said that all right, say the OMB does not exist. In fact, back in 1971 York region—I was the chief administrative officer of Metro at the time—said that what the OMB should do is the council should make the decision, the OMB should then hold a hearing, then tell the council everything it has found out and then the council will make the final decision. That was their answer.

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Mr Silipo: Maybe the council should do that.

Mr Kruger: That has just reared its head again, as a matter of fact. If you do not have the OMB, what are you going to have? Does an individual have the right of appeal to some body against a decision of the municipal council? Should the municipal council be it? Should the committee of adjustment? Should it stop there? If it does not, then it is probably going to go to the courts.

Mr Silipo: I guess that is more the aspect that I was interested in, not the kinds of issues, but the basis on which you see that your role is sensible, is useful or is appropriate. I understand the kind of political implications that you talked about and that whole aspect of things, but quite frankly, I would not want—I do not think you have said this, nor am I in any way saying that what you are saying is really the major reason for the continued existence, that it is in order to give politicians a way out of dealing with difficult decisions, although I am quite conscious that sometimes, as you have described, it is used in that way.

Mr Kruger: I would never, ever say that of politicians.

Mr Silipo: No, you would not, but you are clearly saying that there is a role beyond that aspect of it that you think some group or some body has to perform.

Mr Kruger: I must tell you from a personal level. My background is both psychology and economics and I have had a fair amount of experience on administrative tribunals. From my experience in the municipal world, and I have spent a lot of time there, I did not appreciate until I got on this board just how much this is looked upon as a court of last resort by the individual in the community. I see those letters. I see the types of questions that they have. I have grown to appreciate very much that if you did not have the board—I have wondered to myself—what would you have in its place? There needs to be some appeal mechanism. If it is not this board, then you have to find some other by right.

Mr Silipo: I have one last and I hope quick question. You just touched on some of it in the last answer and also earlier on when you said that you often hear from people, whether or not they win a particular decision, that their pleas—in fact somebody has pointed out a particular aspect to a problem or a decision that nobody else had done prior to that. As you are going through the decision, you no doubt come across things like that whereby you, as members, might conclude, "If only people back at the council had actually done this a little bit differently in explaining to the public, etc, maybe we would not be dealing with this issue now."

Are there mechanisms that allow you, when you come up with those kinds of things, especially if they are things that recur, to be able to filter back either to the councils or through the ministry, whatever the appropriate way is, suggesting procedures or changes in procedures that municipalities ought to follow that maybe might diminish the need for people to go to the OMB?

Mr Kruger: Generally, we do that via the decision that we render and in the written reasons. That is why we reserve on a lot of these decisions. You will see there are things within it. I have some excellent examples of environmental matters that have come forward where we have made suggestions to the ministry that it ought to look into its standards, for example, for septic tanks, which we found in one particular hearing were terribly outdated. We run into that all the time.

If it is important enough what I do as chairman after the decision is rendered, because due process demands this, is send the decision directly to the deputy minister or to whoever because there is a deputy within the system. I will say, "Here, you better take a look at this because there's something here." I have found, particularly with the Ministry of the Environment, that where that has happened it has got down to its planning group. A lot of this has occurred when we are talking about the Niagara Escarpment, particularly some of those hearings. They have taken it and they have looked into it.

I go up and I speak to these planners myself, not on a specific case, but the message gets through via those devices. Also, as we start to network better than what we have been doing at the staff level, there is a lot of dialogue goes on as the case comes forward. With the respective ministries we say: "Did you think about this? This thing is coming forward. We might have a difficulty here." So there is a lot of that.

Another device that we will have is as we look at the legislation. As I have said before, the members will pick up: "This doesn't seem to work. Maybe there's some other way." All of that gets filtered. Generally, if it is via the decision, it is by myself to the deputy minister and so forth. So we are starting to bring in those network devices, but it is an exceedingly valid point, sir.

Mr McGuinty: I would like to please touch on the salary aspect with, I think, a new dimension. Mr Kruger, at the outset you indicated, I believe, that the salary for a new member is in the range of $85,000?

Mr Kruger: Yes, $84,000.

Mr McGuinty: How does that compare, do you think, with an equivalent position in the private sector?

Mr Kruger: If you are talking about the type of planner we would want to get as a director of long-term planning or something like that, they are pushing $90,000. If you are talking about a lawyer out there, you are talking about $95,000. As a matter of fact the city of Toronto about three months ago advertised for a lawyer to do prosecutions and things of that type and it said the starting salary was $93,000 and change. If you are talking about attracting people from the private law firms, you are talking about a much larger sum.

One of the difficulties I have, and it is a very real difficulty, is that I have members on my board who have the QC designation who have been there on the board for 17 or 18 years. In the civil service now we have what is called a CC 2, for example, a lawyer who is the working level lawyer within the Ontario public service, who will get $96,000 or $98,000. Yet my ordinary members who have had 17 years' experience at this are earning less. That is a cause of great discomfort to the members and it is also one of the impediments that I will find when I talk to lawyers outside.

Mr McGuinty: Something I have detected just from what the members have been saying, and I think it is something that is very commendable, is that in addition to the financial reward this job provides them with an opportunity to render a public service.

Mr Kruger: Yes, absolutely.

Mr McGuinty: Given that, I would think that we should not be trying to set salaries that are equivalent to the private sector, for instance. What do you think of that?

Mr Kruger: I think whenever you join the public service you make a sacrifice. I know when I joined the public service many years ago I made a very conscious sacrifice, and I knew that was the way it was going to be. But you get to the question in your mind, how far should you go down? If I looked to equivalents in the public sector, in municipalities or outside, I would not be talking in terms of those moneys, of $93,000; I would be talking well in excess of $100,000 to attract a member. So in effect I am not looking for equivalents. I am looking for enough that I

can convince—because in the review of people who would want to come to the board, if the only thing they want to talk to me about is salary, I do not have that much of an interest in them. There has got to be a desire for public service. There has to be an understanding of communities.

That is a balance you have to weigh, but surely they should ask and we should expect that they would ask to be compensated reasonably well in comparison with the industry. I am not going after the top at all. To do a proper comparison you are over $100,000. But again, there is a way of going about this. You draw up your job description of what the job requires and entails and then you go out and test it. I would not be looking for the equivalence in the private sector.

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Mr McGuinty: I wonder if I could take that a step further. Does the discrepancy between what members are being paid and what is offered in the private sector constitute a morale problem among the members of the board?

Mr Kruger: The morale problem the board has right now is the treatment the board had in getting a 1.93% increase last year. I am not blaming anybody; it is just the way these things work in a bureaucracy. When they were placed into what is called the ECP level, which is the director level within the public service, they said, "All right, this is the salary you've been getting." There used to be order in council appointments, and the salaries used to go up every year by OIC appointments. They said: "Let's get rid of that, because it becomes very visible. Let's put you on a standard type of thing so you can get the same as everybody else." It sounded reasonable.

So they put them at what is called 104% of the range, not 100%. Then the government came up with a directive last year that said nobody should earn more than 100% of the range, because if you are performing very well you get more than that. Therefore, the salary came down, so that is a factor.

Where I am concerned about the salary is the attraction of the type of members with the background and the qualifications that I would expect to get. If I were to say what is of concern to the members, there are two concerns: we have to get resolved this "at pleasure" or otherwise, and we have to get resolved what is going to be the salary level that is set. But obviously the term and the "at pleasure" is more important. The reason I am looking to getting the salary, just as a lot of the members who came in three years ago, they were somewhere around what was going in the municipal field. Today they are not; they are higher. But they are not really screaming that much about it.

Mr McGuinty: Two more questions. First, is there a quota system in effect now for hiring new members, of any kind, to your knowledge?

Mr Kruger: No. What we try to do is attract the people from all of the communities we serve, as many as we can, who have the qualifications. We look for the qualifications. In the last group, more women came in, more visible minorities. That is because we went out and we knew where some of the visible minorities were. They were lawyers and that, and we said: "Well, they're qualified. Let's see if we could interest them to come to the board." There is no quota as such, but there has to be a balance.

One of the difficulties we have is trying to bring on the board a handicapped person, because they have to be able to drive cars, they have to be able to—we do not have staff who take all of the documents with them. They have to be able to carry documents and things like this. They have to be able to go up to Timmins on an aircraft and struggle off the aircraft in the wintertime. That is somewhat of a difficulty for us.

Mr McGuinty: There does not appear to be a formal quota system as such, but from what you have told me I think it is fair to infer that there is a certain direction you are trying to take in terms of hiring.

Mr Kruger: Yes, and I think that is legitimate. But I must tell you, if I have to bring on six members and I cannot find the mix of the members, I am quite willing to bring those people forward if they are the only ones who we can attract who have the qualifications.

Mr McGuinty: My last question: With respect to the salary for members, some $84,325—

Mr Bradley: This is not the members of the Legislature?

Mr McGuinty: No. Is that a base salary, and is there anything in addition to that if it is only a base salary?

Mr Kruger: That is the salary. They do get pensions, they do get benefits.

Mr McGuinty: Expenses?

Mr Kruger: They get expenses, but they have to justify every one of those expenses. You will not get very fat on their meal allowance, I can tell you.

Mr Bradley: How much is it?

Mr Kruger: In a given day, and if you are in Ottawa, you have to be able to live for breakfast, lunch and dinner on $32.

Mr Bradley: That is more than this committee.

Ms Haslam: The trouble is that I have a lot more questions now. There seem to be two distinct areas here. One says we like them with varied background, there is no preconceived expertise, and we are looking at farm people, more women and so on and so forth. On the other hand, you indicated the need—and Mr Howden brought this forward—for some very heavy expertise to handle the position.

Mr Kruger: Experience.

Ms Haslam: So my question is, bottom line, if I showed up for a job on your board, and I am not a lawyer, would I have—

Mr Fletcher: She is looking for a job.

Ms Haslam: No, I am not. I have three now. What expertise did the farmer who is on your board bring with him in order to be hired for this position?

Mr Kruger: He had been warden of the county, he had graduated from Guelph, and he had run his own farm with some 700 head of cattle, and had extensive municipal experience.

Ms Haslam: Extensive as a warden?

Mr Kruger: As a warden, as a municipal councillor. He had been on every committee that ever was up in that area, he was on planning and so forth, and he knew the area. He is one of the people who did get attracted to the board and who likes to take rural hearings. We have a person also who has a degree in philosophy and in education as well.

Ms Haslam: I understand that. I am just trying to find a medium here between the expertise Mr Howden is mentioning and the other side.

Mr Kruger: Experience.

Ms Haslam: That brings me to another point: the experience you give her in 18 months' training is usually added to a QC or some of that expertise. I am just trying to find out what—

Mr Kruger: I am not speaking out of school. Anna does not have a QC, not that that matters.

Ms Fraser: There are not any being made any more.

Mr Kruger: But there are not any being made any more, that is right.

Ms Haslam: Or you would be one, Anna, I know.

Mr Kruger: I have one person on the board who was in education, who is actually sitting with Anna on this particular hearing, who has been longer on the board but needs more experience and understanding.

Ms Haslam: I am not going to dwell on the salary. I can see the point. I do not perceive that Anna would be making less than what she is making on the board in her private practice.

Mr Kruger: She was making much more.

Ms Haslam: Right. I am trying to draw the connection between the fact that on one hand you say it is not necessary to be a lawyer because we give you 18 months' training; on the other hand, in order to get good people on the board we have to offer them a lawyer's salary, because they will not leave a practice.

Mr Kruger: That is not a lawyer's salary.

Ms Haslam: But you are offering a salary that is much more than some people would anticipate receiving, and I am trying to find the connection between those two lines you have put forward.

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Mr Kruger: If you were applying to the board, as an example, we would look into your background, your life experience, what you have done, how diverse that has been, whether it has been channelled in one direction, and try to determine whether you have the intelligence to be able to absorb the matters that come forward. You can do that from an interview coupled with the background of the individual. If it looks as though this is a good prospect, this is what I would tell that individual: "You're coming on board. There is always a chance of failure"—they would know that—"but we have every expectation that you will succeed." We would put you through the program. If you happen to be a lawyer, all the better."

The salary I am talking about—when I talk about this within the municipal field, you will notice that I gave a planner and I also gave the other. I think when a person gets to the level of everyone doing the same type of job, they should be compensated the same. The question arises whether at intake they should be receiving the same amount of money. You can argue that, but the present position—

Ms Haslam: That is not my question. I think the first part of your answer answered my question, so I will come in very quickly with my second. Do you have a library covering technical, legal and policy aspects that you can draw on? In other words, when you are making your decisions, what type of background support do you have in the way of research?

Mr Howden: Good question.

Ms Haslam: Thank you. I work hard at my questions.

Mr Kruger: We have a very extensive library. Our problem is that we do not have the research staff who can come forward and look at that. We do not have that ability. As a matter of fact, this is one of the issues I am sure Anna will address from her own experience when she came on the board. If I heard it once, I heard it a hundred times from her: "Where is the research staff?" But we are going to correct that. One of the reasons I was attracted to this board was that despite the fact that I have done a lot of adjudicative work in administrative tribunals, I am primarily a public administrator.

Ms Haslam: It just comes back to the fact that the good library in this building helps me do my job. While I am elected, I am not a lawyer and I am not a municipal—as this is your situation, where you are sitting in a quasi-judicial board, if someone wants to get into that position who does not have the qualifications of a lawyer, then good research is very good.

Mr Kruger: We should provide that. As a matter of fact, we have all types of great ideas where various important cases—eventually these will be computerized so a member can call up specific cases.

Ms Haslam: Will that open up the possibility of people on the OMB without so much of the qualifications, where the salary is then not a drawing card?

Mr Kruger: I do not know that it will open up without so much of the qualifications. Again, it depends on the individuals. If the thrust of your question is: Do we need as many lawyers on the board? That always is the first choice, but no. I would like to see a mixture of people who are not necessarily all lawyers. We have been very heavy, and that is a product of the past.

Ms Haslam: Again you say, "We do not need all the lawyers," but on the other hand you say, "Without that lawyer's pay, then we do not draw some people in." I was trying to see the connection between the two and how we could come up with solutions to help you overcome that connection.

Thank you, Mr Chair. I am looking at time, so I will pass on.

Mr McLean: Very briefly: Members have been expressing opinions today and I do not mind expressing mine. I have watched the board in 28 years of politics, and I think it is one of the best things we have in Ontario for

the ordinary person. It has operated well, in my opinion. I have referred many people to them, and I tell them, "You don't have to take a lawyer with you. Just be up front and tell them the way it is and you'll be treated fairly." And I think that is the way it should be.

There is one concern I do have. When hearings are taking place, our legal system appears to get caught up in the hearings. I remember the one in the Tiny-Penetang area with regard to the landfill.

Mr Kruger: Tiny township? North Simcoe landfill? I remember that very well.

Mr McLean: It went on and on and on.

Mr Howden: Joint board.

Mr Kruger: Joint board. That is the type of thing that comes out of a joint board. This is one decision which the OMB member really had great difficulty with, this particular decision. That was a joint board. That is different rules.

Mr McLean: Joint board with who?

Mr Kruger: Environmental assessment. You have to go through the whole process and so forth. You would be aware of this: this is the one that is in Meaford, in the township of St Vincent. That was very, very difficult.

Mr McLean: How are you going to curtail? Are you looking at that aspect of getting caught up in the legal system.

Mr Kruger: The Environmental Assessment Board is taking a look at all of their procedures—this is the position of the government—because I think there is a general recognition out there that under the Environmental Assessment Act it takes too long, it is too expensive, it is unnecessary in a lot of cases and it frustrates me. Every time I have a joint board I have the feeling that my member is going to fall into an abyss somewhere, I am not going to see that member for seven to eight months. The North Simcoe hearing, for example, eight months of hearing time when I just could not afford the member's time.

The government is looking at that. We are attempting to contribute to that. One of the reasons we are trying to codify all of our procedures is to see if there are not quicker and better ways we can do it. I have been in touch with Grace Patterson and some of our members have actually been up there sitting on their committees. We are hoping to be able to find a much more expeditious way—still fair, still reasonable, still covering all of the points. Because this is a case in point, where after it is all through the process that was followed was not any good, whereas if the process had been known to the people beforehand it might not have come out this way. I know we put right in there and our member laboured over making sure that there was some direction at the end of this as to how it should go.

Mr McLean: But that is on your joint boards. What about where there is a three-member board, probably hearings such as the Barrie-Vespra-Innisfil annexation that went on for months through the legal process, and there did not seem to be any stopping? Common sense could have told them what to do.

Mr Kruger: Those types of hearings, the fact that it is a three-member board—we have three members on controversial hearings, like this thing I got when I went back to lunch: "Senators suffer setback." That will have a three-member board. The Etobicoke hearing will have a three-member board.

But under the processes we now have, of pre-hearing conferences where all documents have to be pre-filed, where it will be taken as read, where they have to put in a summary of their evidence and they lead evidence based upon the summary, not on page 1, page 2 and this type of thing, there are procedural methods by which you can really speed up a hearing. I think the Innisfil one, for example, that will not occur again.

Mr McLean: One final question, Mr Chairman. A lot of people would want me to ask this question. What will the chairman of the board get for this fiscal year in salary?

Mr Kruger: I am a deputy minister. It is in your documents.

Mr McLean: I know what is in the documents, but that is not the question I asked.

Mr Kruger: I think I will plead that as with any deputy minister, I am in a range. Okay?

Mr McLean: Somebody told me it was $140,000 and I thought I had better ask and find out.

Mr Frankford: An area of the board's work which I do not think has been touched on today, "Capital expenditures of municipalities and school boards." I notice it seems to have the largest number of cases.

1520

Mr Kruger: I was just going to do that. We have very few hearings on capital expenditures. Bill 229, which died on the Orders and Notices of the last government, said in effect that this was something that would be taken away from the board because we get most of our information from Municipal Affairs and also from the Ministry of Education. We had no problem with that because we have a few staff who do most of these. Very seldom does it come to a hearing. There is a section in our act, section 64, that says where sometimes there is an objection—I have an objection right now, where Northumberland county wants to put up a new building. All of the area municipalities say no and it just so happens that the members who sit on county council from these area municipalities vote with the council, vote with the county. I saw the warden and I saw all of the opposing things. They went to court. They were unsuccessful. We have to hold a hearing because this is a family dispute. It has nothing to do with whether they have the capacity, so on things like that we will hold a hearing. It is very seldom.

Now under this new act, if you go beyond the limits which are laid down—that is, the 20% limit—we may be forced into holding some hearings. We have no problem with that being taken away from the board because that is not hearings. We have very few hearings on capital expenditure because they will come in and they will say, "Well, we want to do this." We will say: "That is over your limit. Sorry, you can't do it." Generally, they say, "Okay, we

won't do it," but they know the rules, most of the municipalities. That is not a problem for us, those hearings.

Let me tell you about the section.

Mr Frankford: Excuse me, could you slow down? Could you explain to me, a very new person in this game, what are they required to apply for?

Mr Colbourne: Mr Frankford, if I can help you out, briefly, under our own act, all municipalities, when they want to have an expenditure approved and borrow for it and the borrowing goes beyond the term of council they have to have our approval. Irrespective of whether it is an objection or not, we get an application for approval. What the chairman has said is correct. Very few of those applications are objected to in general so we have very few hearings resulting from that application. We have to deal with them all, but we deal with them administratively.

Mr Frankford: You are sort of like a bond approval agency in a sense?

Mr Colbourne: We set the limits for borrowing for each municipality in Ontario each year based upon their revenues. We have a formula which has been in existence for a number of years and we approve the borrowing up to that limit.

Mr Kruger: Some councils do it by bulk order, you see. We used to do it by bulk order at Metro rather than on individual projects. That is what we do. Most of the time, where there is an overrun today that we have to be a little concerned about it is generally that somebody in a smaller community is putting in a sewage system or something and the initial reviews they had from the engineers said, "Well, this is going to be the cost." They ask us for the cost because it is going over the term of council and we approve it. But when they get in they find that they did not have this and they did not have that and they have to go over. So we have permitted some of them to do that because there are environmental considerations. But that is not a problem for the board. It is not a problem of workload at the board level, nor really that much at the staff level. It is pretty automatic.

Mr Frankford: So you are saying that it is basically a formula and it is a rubber-stamping.

Mr Kruger: Yes, that is right.

Mr Frankford: But it would seem to me that capital expenditures could have an impact on the long-term economic tax base and so on of a municipality.

Mr Kruger: That is why the board was set up back in—and we started—that became very evident back in 1923. We have been doing it. That gave a degree of comfort to all of the bond rating agencies when they go down to Moody's and Poor's and they are able to say—and I used to use this at Metro or whenever I went to New York. I would say, "Don't be concerned about us because the province has got this OMB bunch of people over there and they review everything to make sure that we don't go over our limit." It is a great degree of comfort, but I think most municipalities are now mature enough. They know what the standards are. They know what the formulas are and the Investment Dealers Association—after all, there was a review that went on for a couple years where they decided that maybe it was time to change now. But it is a formula type of thing.

I do not know whether or not this government is going to proceed with that. But you are quite right. It does give investment dealers and the bond rating agencies a great degree of comfort to know that there is Big Brother looking over their shoulders.

Mr Grandmaître: Can you be of more help to Mr Frankford and talk about that formula?

Mr Kruger: Okay, do you want to talk about it?

Mr Colbourne: It has been in existence over a number of years and it is based upon the municipal own-purpose revenues, if you are familiar with the financial stuff from the municipalities, and it is a present value of a capitalized current interest rate which we get from OMERS. In other words, if the current OMERS rate is about 13%, we capitalize their income based upon that interest rate to set the debt limits. Each application within that upper limit comes in regularly, for sidewalks or whatever, and unless it is objected to, we do not have a hearing and it is handled administratively and goes right through, so the only impact upon the economy or anything else in delay would be where there might be a hearing or where they go over the limit and we have to recalculate and rethink about their upper limits, based upon the application. It is at 20% or 25% in certain circumstances.

Mr Grandmaître: That is what you wanted to hear. My question is a very simple one. Who makes the selection of the member or members to sit on a specific hearing? Let's pick the environment. It is an environmental problem. Who makes the selection of your membership?

Mr Kruger: That is the chair. I will consult, very much so, with the person who is handling the calendar and we have it down to a pretty well automatic thing if there is no problem. If there is a controversial thing like that which would come up or some other particular type of hearing, Mr Colbourne would consult with me and he would say, "Who should we put on?" and we would go over our calendar. We have a pretty good straightforward process on that, but the ultimate responsibility is mine.

You should know, one of our problems to try to keep our workload down, Mr Grandmaître, is that there is a section called section 15 of our act where the chairman may delegate one member to sit on a hearing. If you read our act it is obvious that our act was never designed to have one-member boards. It was always designed to have more than one member on, but in extraordinary circumstances have one member. Because of our backlog, 65% to 70% of all our hearings are one-member and I sign them off on the files daily.

Mr Grandmaître: One very short question. I would like to go back. I was minister at the time of the Dale Martin decision.

Mr Howden: The World Trade Centre?

Mr Grandmaître: Yes, the World Trade Centre. Will you be doing more of this in the future, awarding costs, or let's use the word, penalizing people for being frivolous?

Mr Kruger: We have an ability there. We are very judicious in our application of that ability. But if we see a trend developing, we will not hesitate if there is a clear abuse of process, and we are finding some of those and that is what I mentioned earlier to a question. One of the things that could change in our legislation is giving the board the ability to award costs so that the costs will come to the OMB to offset the costs of hearings where it is obviously frivolous and an abuse of process. The number of times that we would do that is rare and we would be very measured on it, because a lot of people—although to the other side, Mr Grandmaître, as you would appreciate, it might appear frivolous and stupid and everything—when you hear their point of view, to them it really was not, so we have to balance that. But until you get the hearing, no. But the Dale Martin type of thing, yes, that was clear.

1530

The Vice-Chair: Mr Waters?

Ms Haslam: We have asked all your questions, have we not, Dan?

Mr Waters: Yes. That is what happens when you sit and listen for a while. I have a few questions. I will try to keep them short. One of the things that I find I guess somewhat distressing here is that there was a comment this morning made that not only do you have to be fair, but you have to be seen to be fair. I would say that you would have to not only be fair, but seen to be fair not only when you are making your decisions, but also in your hiring practices. I have somewhat of a problem with your practices, the way you are implying that you hire people. You say that you have to have lawyers, or basically lawyers; after all, 60% of your people are lawyers.

Mr Kruger: That is a product of the past, yes.

Mr Waters: You say also that when you advertise you advertise in the Globe and Mail for positions or you get your other positions from contacts of members of the board.

Mr Kruger: Members of the board or outreach.

Mr Waters: This was stated here this morning.

Mr Kruger: Yes, and if you will remember, I also said that one of the recommendations was that we should advertise in the outreach newspapers as well.

Mr Waters: Okay, but then you have gone on and you have said that it is difficult for women, because you made an assumption—at least I have taken that you have made an assumption—that women of child-bearing age are at home with a family or all want to have a family.

Mr Kruger: No, I did not make that assumption. I got four or five names of people who are bilingual who happen to be women who would love to be on the board, but in their particular case they could not do it. We have women on the board who are not in that case. I have ones sitting right here who do not have children of that age. A lot of women do not have children at all. They are single parents. Well, they have children but they are single parents. You see how confused you can get.

Mr Waters: The same with handicapped people.

Mr Kruger: The problem with handicapped people, and I addressed that, was that there has to be an ability to be able to drive a car, to be able to travel, to be able to carry exhibits and things like that because we do not have staff who accompany these members. I have one handicapped person on the board. That person was a board member and then he got injured. In that particular case, I cannot send that member to certain parts; he has to be located pretty well around the area here. He is concerned, I should tell you, that he is not pulling his weight. So we have difficulties. It is the type of handicap; we would have to look at that.

Mr Waters: You have given me a bit more background on it. You commissioned the Coopers and Lybrand report. Are you going to try to institute any of the recommendations of that report?

Mr Kruger: Yes, absolutely.

Mr Waters: Because the recommendation of the report included that.

Mr Kruger: Absolutely. As a matter of fact, when they came around and I had a steering committee, as you will have seen by reading the report, yes, that was very strong. We do have to try to expand the membership. That is a commitment.

Mr Waters: Going on with the report, do you, as the chair of the OMB, decide how much of that report is going to be instituted or does it come through the ministry?

Mr Kruger: I make recommendations. To give you an idea of what we are doing, pretty well all of the report in some form is going to be instituted. Some of the things are beyond my capacity as the chairman. The question of salary, the question of appointments, that is OIC, those are political decisions, wherever there are administrative decisions that are being made here.

We have set up committees, for example, to look into the question of adversarial, changing the role; we have a committee to look into intervenor funding, so we are acting upon that. We are bringing on the case management. All of that is being acted upon. We have to phase it in, because you will see the amount of money there. The consultant said we should double, pretty well, our budget. I have described it before. It has been a little bit of an administrative wilderness there and as an administrator I can tell you that. But we are phasing it down so that we can phase the thing over a period not just of one year, but over a period of two to three years. All the things we are going to inquire into.

As an example, the question that we were talking about, the inquisitorial approach: Perhaps the way around that is to be able to have some form of intervenor funding whereby the people out there whom you might want to bring in an inquisitorial approach for can bring forward their own evidence if they want to; and this would only be on larger hearings, so they could do it.

So we are looking into every aspect of this. The question of consistency in decision-making, yes, there is a committee of the board looking into that as well, but we have to get the staff resources to be able to do some of these things. A question was asked about research. When I

came to the board there was not one lawyer on staff. There is a lawyer on staff now and we are going to have a few more.

Mr Waters: Okay, I understand what you were talking about there for a minute. You had said 60% of the people were lawyers. I know what you mean now. Going along with this, the backlog, how are you looking at clearing the backlog? Are you going to do as was done in 1983 when there was backlog to clear?

Mr Kruger: No, I am not asking. I am going to try to do something that is a little different instead of just asking for more members. First of all, we want to bring on board part-time members. These part-time members will be people who have been on the board and have now retired from the board for some reason. There is only so much they can work during the year because of pension arrangements. Those people would concentrate probably on consents and variances and things like that. That is one thing which we have not had as a standard.

I want to bring these people on immediately, the six people who will take care of the ones who are going to retire, so that I can have them trained, so that I can keep, by 1992, the same number of members. I want to bring in the staff that can start in the process of doing the case management, doing all of these things to improve our procedures. We have to change our procedures. So it is a combination of a whole group of things. If we can do them and we do them on schedule, we should be able to control the backlog.

Mr Waters: Basically what are you looking at? Developing specialist fields so that they deal with just one special thing—

Mr Kruger: No, no.

Mr Waters: —or every member will be sitting on every type?

Mr Kruger: From the member level, that is what they are trained to, because you cannot adjust your calendar based upon the fact that this person only has this specialty. We train them in a variety of things. If there is a particularly difficult case, say, on an assessment or that, we will have some members who are very skilled in that. Then we would try to put that member on, but generally they would take a variety.

The same thing at the staff level: The case managers are going to have to handle all of the cases rather than concentrate on just one type of case, because that gives you an uneven workload. We are not masters in our own house when it comes to the type of volume we get. That is external to us. It depends on legislation, it depends on what is happening in the community, so we have to have the ability to shift people around and they have to be trained to the point that we can put them where the need is.

1540

Mr Waters: Just one more point, because most of my questions had already been asked. I have one. It concerns, as was started earlier on, the combination of OMB and the Environmental Assessment Board. Have you looked at or is there anything in the works about maybe creating a superboard? In other words, instead of having, as you are now, two boards going down two different roads at the same time, is there any other way of alleviating the problem?

Mr Kruger: You could argue two ways. You could argue that you really did not have to create an Environmental Assessment Board, that could have been done out of the OMB. I would understand why it had to be created. They were good political considerations, because it was a specialty. You must remember that there are different acts that we administer. Even if you had a superboard, you are subject to the acts that govern you on that. If you had one superboard, it might help a little bit in the workloading.

I can only repeat to you what a member of the Environmental Assessment Board who is now on our board told us. He says he has never worked as hard in all his life as he did when he came to the OMB because of the volume of that. But it is different acts. Whether it is the Environmental Assessment Act, the Environmental Protection Act, as to what it is, if it is a joint board, all of those things are governed by very set rules, so just having a superboard does not really solve anything for you.

What it might do, if you are going to argue on that, I would go a step further as an administrator. I would say, "Why don't you have all of your administrative tribunals, maybe four or five of the larger ones, housed in one building and have certain rules for them, share your legal staff, share your administrative staff, share some of that?" That is something that is out there that even Macaulay in his report suggested that one should look at. I do not think you can just look at it here. That goes beyond your question, but to create a board between ourselves and the Environmental Assessment Board is not necessarily the answer.

Mr Colbourne: We have received, in the current fiscal period anyway, five applications of a joint board nature. One carried over previously. I think the chairman has already indicated it is going to be on for three or four years. That involves one of our members. The five that have come in recently are not of the major type, although they can involve the Simcoe landfill, which went on for four months, from time to time. Currently we only have—I say "only"—five out of the Niagara Escarpment combination.

Mr Kruger: And when we get the question about a waste disposal site in this area or other areas, that will probably be a joint board, so that will take a fair amount of our time. You must remember the composition of our board. When the people come on the Environmental Assessment Board, quite a few of them are part-time members. We do not have any part-time members.

Mr Waters: The reason I am asking some of these questions is, when I talk to my people in my part of Simcoe, I know they are frustrated over certain things. Also it is trying to do the best job for the municipalities and the individuals out there. Is there a faster, better way?

Mr Kruger: I think it is a matter of looking at those acts and determining what you have to do when you have a hearing under those acts. That is the way to go. The procedures are around that. I know the Environmental

Assessment Board is looking at some of those procedures now, because some of those procedures by their nature presuppose that you are going to have a very long hearing. So that is the way to go. I think, first of all, you have to look to legislation before you start looking at the respective boards. You also have to look at the various acts. I understand the government is doing that right now.

Mr B. Murdoch: Just to wrap up—

Ms Haslam: Did we wake you?

Mr B. Murdoch: Yes. No, I thought we just could wrap up.

There is just one point I want to make before we do wrap up. I did hear the perception that the Ontario Municipal Board is sort of there to protect the townships and the municipalities and everything. I want to make it quite clear that some of the municipalities are not of that same feeling. They think it is there to protect everybody else and not themselves, and that is where I challenge the board. It will have to go out and do a lot better job of selling itself to everybody in Ontario, but it is not just a one-way street, let me tell you. I just wanted to put that in there.

Mr Kruger: We understand that, Mr Murdoch, very, very well.

The Chair: I think the chairman is probably aware as well that this is something that this committee has not done too extensively in the past. We are going to have client groups appearing before us as well. The Association of Municipalities of Ontario, for example, is one of those that will be providing its views in respect to the operations of the board. Mr Fletcher.

Mr Fletcher: Thank you, Mr Chair. I always seem to be following that Murdoch fellow.

Mr McLean: Do not follow him too far.

Mr Fletcher: No, I might fall over.

The first thing is I am glad there is an OMB. I am very glad there is. I do not know if it works the right way or if there are changes to be made, but I am glad it is there for people on both sides. You are right. It is a two-way street. There is a sort of an ombudsperson to take your case to, and I am very glad of that.

I am just wondering about your role with the Attorney General's office and that ministry. Do you feel that you are too restricted by the Attorney General? Would you like to see more arm's length? Would you like to be taken in a little more or would you like to be taken out of that ministry and put into another ministry?

Mr Kruger: I have said if I wanted to get money, I would be attached to the Ministry of Municipal Affairs.

Mr Fletcher: You would not be attached to anything else in government.

Mr Kruger: If I wanted to be in the right ministry for this board and its functions, I am right where I am in the Attorney General. No, the relationship with the Attorney General at the ministerial level is very, very arm's length. In fact you will find if somebody writes in complaining about a decision of the board, the Attorney General has a pretty standard letter. He would say, "That's up to the board, and you must write to them," and so forth. I know. We draft the letters, and that is the standard type of thing that goes forward.

If they get a call complaining about a member, that is referred to me, and I do get those calls. They do come in, and I will investigate them. Generally the complaint about members is that they made the wrong decision because, you see, when they write the decision, if you are on the losing end, you are going to look at every word and you are going to find why those members did not know what they were talking about. I have no concern about the relationship with the Attorney General.

Mr Fletcher: So you are happy to be with that ministry?

Mr Kruger: I am very happy to be with that because we are the closest administrative tribunal to the courts that you can get.

Mr McGuinty: Mr Chairman, I am going to try to ask now what I think they call snappers, those questions where you—

Mr Kruger: Snappers? I love them.

Mr McGuinty: I am going to ask brief questions and I am going to try to elicit brief responses, Mr Kruger. First of all, with respect to intervenor funding, we do not have it right now at the OMB.

Mr Kruger: That is right.

Mr McGuinty: Would it be a good thing to have it?

Mr Kruger: It would be a good thing to have, in my view, on certain cases. They would have to be very large cases; they would be not totally across the board. It would be the Etobicoke type of hearing.

Mr McGuinty: More complex and sophisticated.

Mr Kruger: Very complex, very sophisticated. Yes.

Mr McGuinty: Okay. Perhaps I can ask this. How would you recommend that we go about distinguishing or drawing lines between the different types of cases?

Mr Kruger: By the procedures that you bring forward. That would govern it.

Mr McGuinty: I gather there are still a fair number of laypeople appearing before the board.

Mr Kruger: Yes.

Mr McGuinty: Is it fair to say that a layperson can require more of the board's attention, in that it can take more time for the layperson to present a case than it would a lawyer?

Mr Kruger: Sometimes that is quite true. It depends on the layperson and how long he wants to talk.

1550

Mr McGuinty: Would it be of assistance to the layperson and of economic benefit perhaps to the taxpayers of Ontario to provide a layperson with legal counsel at an OMB hearing?

Mr Kruger: It depends on the type of hearing that you are talking about. It would have to be a complex hearing. We have considered whether or not there should be a staff lawyer on staff who could help out in those cases, but I would think you are talking about something that goes

beyond the average case. You are talking about 20 cases maybe a year.

Mr McGuinty: I spoke earlier about and you answered questions regarding pre-conference hearings, I guess we call them. That is something I gather you are anticipating bringing into effect.

Mr Kruger: It is in effect now.

Mr McGuinty: How broad a scale?

Mr Kruger: It is starting to get broader and broader. There has always been an element, within the board's practice, of practice directions and things like that to try and do it. The only difference is we are tending to formalize it just a little bit. For example, next month there are 12 pre-hearing conferences.

Mr McGuinty: Why are we not holding them in every case?

Mr Kruger: It is not necessary on a consent. If, and this is where the staff would come in, you do a proper job on your file, your file is complete, you know what the decisions are, that is where your pre-trial type of concept would come in. It is not necessary to hold them, but there are certain ones that you would hold them on.

Of the ones that we are going to hold them on, we have this affordable housing thing that is coming up, which we held it on, which was in the Goodyear site. We were very precise about what was to be done and how they would be done on that. The pre-hearing conference or the procedure order that followed the one on Etobicoke runs to about nine pages of very precise things. We will be doing a pre-hearing on the Ottawa Senate as we will be doing a pre-hearing on a whole group of things. We have Bill 20, which is development charges, coming down the line.

Pre-hearing, it depends, there are a variety of things that have gone on in the board. It is just that we are tending to formalize them a little more.

Mr McGuinty: You are intending to formalize that. I can understand that. What kind of a commitment can you give, if any, with respect to bringing into effect a more formal procedure, for instance, for pre-hearing conferences and I guess, a commitment, generally, with respect to the backlog? When can we have that whittled down?

Mr Kruger: Give us the money, give us the resources, and we will do it. I have already stated those times in my submission to Management Board. I said: "Give us the resources. Don't hold us up on the number of members we can bring on and the speed with which they are to be brought on." By about the end of this year—I have already stated this—we hope to have contained the backlog to about nine months. By this time next year, at the beginning of the next fiscal period, we hope to have it down to six to nine months. We might even beat that, but we need the resources.

The Chair: Mr Kruger, when you received your appointment as chairman of the board, how were you informed of that? Was it through the Attorney General's office or the Premier's office? I am just curious on that.

Mr Kruger: No, I was informed of it by the Secretary of the Management Board of Cabinet. He said: "I shouldn't be saying this you, but you are the person who has been successful. You will be getting a call, I believe, from the Attorney General." Then I got a call from the Attorney General who then said: "You're it. Let's see some changes."

The Chair: Did he specify the sorts of changes at the time that he wanted to see occur?

Mr Kruger: No, not really. I had to go back, talk with the members, sit down, and then I had a little agenda the next time I saw him and said, "These are the things I think we should do." Some of the big items there were some of the things that we discussed here. I heard almost contemporaneously from him and from the Premier at that time.

The Chair: I gather they both had concerns about the way the board had been functioning up to that point in time. If the Attorney General suggests changes—

Mr Kruger: I would not know that. You would have to ask them that. I could not get into their minds, nor did I ask them.

The Chair: I am wondering with respect to the agenda if you, as a chairman appointed by a previous government, received direction explicitly.

Mr Kruger: No, I did not receive any direction explicitly, "These are the things that you must do." I would never have taken an appointment on that basis.

The Chair: But there was a suggestion that changes were required.

Just a couple of quick ones about your support of at-pleasure appointments: I guess when we had this discussion prior to meeting you, we were concerned about the ability of any government to dismiss an individual who perhaps was not performing up to snuff. I guess your interpretation of that is something different than ours. We felt that it may be difficult. We were equating it with perhaps a judicial appointment. It could be extremely difficult to remove someone from the bench.

Mr Kruger: It is not in the same league as a judicial appointment. I see the members of the board to all intents and purposes as very similar to civil servants. They have the pension and so forth and every civil servant is at pleasure. You control this by the performance appraisal. I think it is the responsibility of the chair. There is a variety of sources by which you know how well the member is performing. You try as best you can in the performance appraisal to say, "These are the areas of your weakness, and we will help you to try and improve them." If there is not, then I would have to go forward to the minister and say—I would say this of course to the member beforehand—"This person is not acceptable."

What happens within the board, if the government agreed, would be the same thing as happens within the civil service. You may have to come to some agreement on some settlement of the member leaving. I can tell you right now that is not a problem on this board. I can tell you that without any qualification. There is not any member whom I would see who should be released. If there was, I would be talking to that member.

The Chair: One final question: You quoted earlier from our temporary standing order with respect to the additional responsibilities this committee has had placed upon it. You have obviously read the standing order.

Mr Kruger: Yes, I have.

The Chair: Do you have any views to express today as the chairman of the board?

Mr Kruger: It is a very difficult standing order. It is going to be very difficult for this board. Let me give you some examples.

The Chair: Go ahead.

Mr Kruger: When it comes to new members, I have less of a problem, going through your subcommittee and then doing your 35-day bit and so forth. I have less of a problem with that. The role of a chair in this becomes somewhat like a personnel director. That is what I would be, and I have been discussing this with the ministry. They are yet to tell me what role they want to play in the initial oral board that we would have. We would interview the various people and I would make recommendations to the minister and he would bring them forward. There is a process there. It is going to take time and time is my enemy, because if I am going to achieve the objectives I have set out here before you today, I have to get these members on as soon as I know I have the money. But that is less of a problem.

I have a problem on the part-time members, because my present level of understanding is that the part-time members would be considered to be new members, yet the qualification of these members is that they should have been ex-members of the board. I have already been told by a couple of my board members that if suddenly they have to go through a whole new process like this, I am going to find it very difficult to attract those. I would think they should be treated somewhat like the members who are coming up for reappointment. I understand they would not come forward. They would just be automatic with the minister. I would think that the part-time members, because of the particular situation we have and the fact that they must have those types of qualifications of having sat on the board—I have to get these people up and running in order to attack the backlog. That is the purpose of having part-time members. So I am just a little concerned about that.

I am also concerned about the question of vice-chairs. This is one of those things that has not yet been resolved. Of the three members who will be leaving, three of them are vice-chairs. How am I going to appoint vice-chairs? The normal thing used to be that the chairman would make recommendations to the minister who in turn would make them to the government. Are these going to be advertised or are they not? There is clarification which I am now seeking from the government as to how that would be done.

1600

The one saving grace in this process is that I think it is good to have a process down. I think it does open it up, but I notice there is a six-month limit on it. I think that is probably the best insurance you have, but I do have problems with it. I have problems of time regarding this board. We are not like any other boards that I have sat on. It does not matter. You can have a complete layperson who can sit on the board and his qualifications do not matter that much, because you have all the staff resources, and particularly if instead of an adjudicative board that operates in an adversarial environment, it is a regulatory board. A regulatory board has a much better ability because you have all the staff. You are inquisitorial in your approach and so forth. We are different to that. Yes, I have some difficulties. I have been in touch with the minister's office and we are attempting now to work out a procedure by which this can be done.

The Chair: We appreciate your input on that and we appreciate your appearance here today. We can wind it up. I will alert you to the fact that there always exists the possibility that following our meetings with client groups, we may request you to appear once again before we finalize our report to the Legislature.

Mr Kruger: On behalf of the board and my colleagues, let me say we have welcomed our appearance here. We have been treated very well, very fairly. A couple of the comments went by me and I did not comment upon them. I have learned that skill through many years, but thank you for your attention. I am delighted that at least there are some members of the Legislature who have a little better understanding of what this board does. One of our greatest problems, and it was touched on by Mr Murdoch, is the ignorance generally out there of what the board actually does do. Partly that is one of our problems. I thank you for your courtesies, Mr Runciman. It is very nice to see you again, sir. I look forward to coming back any time.

The Chair: I wonder what hat you will be wearing that time.

Mr Kruger: Yes. Thank you.

The Chair: Before we break, two minutes with the committee: The question was raised before lunch about the press comments about the appointment of Mr Sears and whether this perhaps was in contravention of the standing order. Our clerk has looked into this and it would appear on the surface, and we will pursue this perhaps a little further, that this particular appointment does not fall within the mandate given the committee with respect to this particular appointment falling under the definition of an agency, board or commission. So it looks like that appointment is not one that would have to be given consideration by this committee.

Mr Grandmaître: I have a question, Mr Chairman. Can I ask you, not who the former agent general was, but was he appointed by an order in council?

The Chair: It is an OIC appointment. Have you got the standing order in front of you?

Mr Grandmaître: Yes.

Mr Silipo: Sorry, Mr Chair, what is an OIC?

The Chair: Order in council. The intent is to appoint a person to an agency, board or commission. We have secured the list of ABCs falling under the Ministry of Industry, Trade and Technology and these sorts of trade

offices or whatever the term is do not fall under that definition, so therefore they do not fall within the mandate of this committee. As I said, the clerk is going to pursue this further. If there is a different understanding tomorrow we will bring it to the committee's attention.

Mr Grandmaître: What section of the standing orders are you reading?

The Chair: Number 1.

Mr Grandmaître: We are going to pursue this, Mr Chairman, because I am not sure that—-

The Chair: The clerk is going to talk to Ms Phillips in the appointments secretariat and to a few other people who can perhaps provide advice and report to me and I will report to the committee tomorrow.

Mr Grandmaître: Just for the record, I have looked into it very briefly, and apparently that appointment would fall in that category of OICs and we can request that this appointment be reviewed. We will wait and see what your report says.

The Chair: This may be a tempest in a teapot as well, because Ms Phillips may well be bringing that forward to the subcommittee on Thursday. We do not know at this stage. As I said, the clerk is going to talk to her.

Mr McGuinty: It is news to me that there now exists apparently a category of appointments which will not come before this committee for review. I think it would be helpful if we had a list of all other possible appointments which will not fall under the mandate of this committee.

The Chair: Order-in-council appointments? Yes. We shall endeavour to obtain that.

Mr Grandmaître: Because, who knows, we will not have to meet again.

The Chair: We will adjourn until tomorrow morning.

The committee adjourned at 1607.

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Standing committee on government agencies

Agency review:
Liquor Licence Board of Ontario

Comité permanent des organismes

Examen des organismes gouvernementaux :
Commission des permis de vente d'alcool de l'Ontario

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 23 January 1991

The committee met at 1407 in committee room 1.

AGENCY REVIEW

Resuming consideration of the operations of certain agencies, boards and commissions.

LIQUOR LICENCE BOARD OF ONTARIO

The Chair: I wonder if we could come to order, please. There are two witnesses appearing before us this afternoon from the Liquor Licence Board of Ontario: Ms Karakatsanis, who is the chair of the board, and Barry Tocher, who is the executive director. Ms Karakatsanis has an opening statement. The floor is yours.

Ms Karakatsanis: By way of opening remarks, I would like to touch briefly on the history of the board, its composition and mandate, and perhaps outline some major recent legislative changes.

In 1927 the Liquor Control Act repealed prohibition and created the Liquor Control Board. In 1946, authority for beverage alcohol regulation was divided between two boards. As you know, the LCBO, the Liquor Control Board, is the commercial arm and it is responsible for the sale of liquor in government stores. The LLBO, the Liquor Licence Board of Ontario, is responsible for licensing and the regulation of the beverage alcohol industry.

The modern liquor legislation dates back to 1976. It was at that time that a licence became a right rather than a privilege. That right is qualified in the act, but that represented a major change and all those who are affected by decisions of the board, all parties, are entitled to a hearing before the board. So those are the origins of the modern legislation, which was amended again this past September.

The Liquor Licence Board is a corporation to which the Corporations Act does not apply. There are two full-time members, the chair and the vice-chair. There are seven part-time board members. Two positions are new and they have yet to be filled. The chair is the chief executive officer and I report to the Minister of Consumer and Commercial Relations. The executive director is the chief administrative officer. He is responsible for the day-to-day operations of the board.

The board members are representative in respect of gender, ethnic background, geographical location, language and profession. They are charged under the act with the responsibility of enforcing and administering the Liquor Licence Act. They have two basic functions. They oversee the general administration and policy directions of the board and they meet once a month for that purpose. As well, they act in a quasi-judicial capacity in the granting, transferring, suspending or revoking of liquor licences. Members on average serve about four to five days a month, that is, the part-time members. So it is a fairly active board.

The powers and duties of the board, as I have briefly outlined, are to license manufacturers of liquor to sell their product to the LCBO, to issue licences for the sale and service of liquor and for the delivery of liquor for a fee, to license agents and representatives of manufacturers, to attach terms and conditions or to suspend or revoke licences. We issue Ontario photo cards which were once know as the age-of-majority cards and we pre-approve all liquor advertising in the province. These objectives are achieved by inspections and investigations of licensed establishments and the disciplinary proceedings of the board.

Just to give an indication of the scope of the board's activities, there are 14,000 licensed establishments in the province. We process in excess of 120,000 special occasion permits annually. There are approximately 1,500 applications for new licensed areas in the province annually, as well as 1,700 applications for the transfer of existing licences. We pre-clear approximately 12,000 advertising submissions annually.

The mandate of the board really goes back to its history, in the sense that in 1986 the board was entirely replaced and reconstituted. Senior management was changed at the same time. There was a complete break in the administration in February 1986.

The specific mandate of the board at the time was to address the public perception of the board as a somewhat politicized and arbitrary organization. New hiring practices and administrative practices were brought in, keeping in line with the Ontario civil service, and in 1986 the act was amended to allow the board to appoint its own employees rather than having all employees appointed by order in council, which was the previous procedure. The board adopted as its statement of purpose that it would regulate the service and consumption of beverage alcohol in the province of Ontario in a manner consistent with the promotion of moderation and responsibility.

In June 1986, the government established the Advisory Committee on Liquor Regulation to review liquor legislation, obtain public and industry input and bring liquor legislation into the 1980s. The committee conducted 21 public meetings throughout the province in the fall of 1986. I should say I was appointed as a part-time member back in February 1986 and was a member of this advisory committee as well, and Mr Tocher was the new executive director who was brought in as well in February 1986.

We went to 21 different places throughout the province and we heard briefs from more than 700 people and organizations. Members of the public attended the meetings and expressed to us their views on how liquor legislation should proceed in this province. The advisory committee released its recommendations in February 1987. Those recommendations were considered by two successive ministers and it was in June 1989 that certain decisions were

made and an announcement made based on the recommendations of the advisory committee.

Really the amount of public consultation and input was, I think, unprecedented, not only with the general public but as well with various client groups, including industry associations, law enforcement agencies, municipalities and public interest groups such as the Addiction Research Foundation, with all of which we have developed a good working relationship.

As well as having new legislation which was effective September 1990, a new act was proclaimed. As well, the licensing regulations were amended and there were significant changes in that area. That coincided with new technology at the board. Important functions of the board were computerized in September 1990. We were essentially paper-driven before that time. There are new computerized management information systems and new policy and procedure manuals developed to ensure that there is speedy and consistent service to the public in Ontario.

I thought I would take a few minutes to outline what the application procedure is for a licence. All applications for a licence or for the transfer of a licence are considered by a board member. All applications for new licensed areas are advertised. They are advertised in local newspapers and placards are posted on the premises. The changes to the regulations strengthened those requirements and made the placards mandatory. As well, we have redesigned them and made them significantly larger.

The public is advised that it has 30 days to provide written objection to the board and if an objection is received from even a single resident in the municipality, the board must refer the application to either a public meeting or a public hearing. Most cases go to a public hearing. A public meeting is more informal and it is reserved for those cases where the objections appear, on the face of it, to be irrelevant or frivolous or something outside the jurisdiction of the board.

Most cases are referred to a hearing, which is a quasi-judicial hearing before two other board members where evidence is led and board members make a determination as to whether or not the licence should be issued.

If no objection is received or, in the case of all transfer applications, the application is reviewed by the board member, it can be approved upon written documentation, a board member can interview an applicant if there are any concerns or the application can be referred to a full hearing before two other board members for determination.

I mentioned earlier that there was a right to a liquor licence subject to certain conditions which are spelled out in section 6 of the act. Within that context, the board members consider such things as an applicant's criminal record, adverse financial information, the applicant's previous experience in the industry, whether the premises comply with the regulations and municipal zoning bylaws and fire and health legislation and the proximity and impact of the premises to the residential areas.

Because of the new regulations and new technology it is a bit early to make a prediction, but it does appear that since the middle of September the application process, where there have been no problems, has been reduced by about half. It used to take four to six months to process a routine application; it now takes two to three. Of course, if a hearing is required, that will add to the application time, the process time.

There are basically two kinds of hearings. I have indicated the public interest hearing. As well, there are disciplinary proceedings.

Hearings are conducted by two board members. Evidence is presented by board counsel. In the case of public interest hearings, board counsel is available to assist the residents in presenting their case.

Applicants and licensees are often represented by counsel. Hearings are conducted in accordance with the rules of natural justice and the Statutory Powers Procedure Act and the members administer the oath and add any interested persons as parties. The members must decide if the allegations are proven based upon the evidence presented and the submissions presented during the hearing itself.

The onus is on those who are opposing the licence to show that it would not be in the public interest, to show whether the issuance or continuation of a licence would not be in the public interest, having regard to the needs and wishes of the residents of the municipality in which the premises are located.

The board considers the impact upon the residences of those consequences flowing from the sale and service of liquor, for example, late-night noise and rowdyism.

Zoning matters, parking matters, things that are strictly of a land use nature are not matters that are within the board's jurisdiction and are issues for the municipality.

Board members provide full written reasons and any party to a proceeding may appeal the decision of the board to Divisional Court on a question of law. The recent changes to the legislation abolished the appeal to the Commercial Registration Appeal Tribunal, which had provided for a hearing de novo and had resulted in multiplicity of proceedings. The board does, however, now have the ability to vary or rescind its own decision with the consent of the parties. Where the parties demonstrate that there was an error made there is an informal proceeding to vary or rescind the order.

I will try to be quick in outlining some of the major changes that occurred effective September and I will try to focus on the licensing legislation.

Basically, the regulations have been streamlined. Specific needs for revision have been addressed within the framework both of industry requirements and continuing social responsibility. We have gone from 13 different classes of licences to one class of licence. All licence holders must ensure that light meals are available to their patrons at all times. The food-liquor ratio was abolished and it was replaced with requirements relating to food availability, food storage, serving and preparation.

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A number of endorsements are now available to a liquor sales licence. Many bar and room service endorsements are available to any establishment adjacent to a facility renting overnight accommodation. This accommodates hotels and

motels which did not have a licensed restaurant within the hotels.

The caterer's endorsement is new. It permits a licence holder who has a caterer's endorsement to serve liquor outside of his licensed premises and cater somebody else's event. This replaces the requirement for a special occasion permit. There is a notices requirement. They have to notify the board, the police and the municipal authorities where they are going to be serving and when, and it is a requirement of all staff serving under the caterer's endorsement receive training, the server intervention program offered by the Addiction Research Foundation. That is a pre-condition to service under the caterer's endorsement. This provides a more convenient method of serving liquor at events and also provides greater choice to the public and provides greater control over these events, because the licence holder has expertise in the service of liquor and also has much more to lose and is therefore more likely to comply with the liquor legislation.

Many detailed premises rules were abolished. We no longer have to count the number of squash courts or the number of showers in a recreational facility. Banquet halls are now eligible for a licence. Licensed establishments may cater to private parties. A number of the detailed premise rules were eliminated.

With respect to underage persons, there have been a number of provisions that have tightened up the controls in that area. The lounge licence was abolished; that was that about 15% of the licences before did not allow the presence of minors, or I should say, someone under the age of 19 in the premises at all. Instead, that will be accommodated on a case-by-case basis. The board may impose a condition upon a licence that minors not be permitted on the premises, but I expect that the majority of licence holders who have concerns in this area will be doing so by way of voluntary house policy. A licence holder could have a house policy that prohibits the presence of minors during specific hours or in the evenings, and once that is filed with the board that must be consistently enforced.

The Human Rights Code was also amended to permit the enforcement of 19 years of age as the drinking age, and there is a new offence; licence holders cannot permit the possession or consumption of liquor in a licensed establishment—that prevents someone who is 19 from ordering a drink and passing it on to his or her 15-year-old buddy.

A licence holder cannot permit illegal drugs to be held or distributed, sold or consumed in the licensed premises. That is a new provision, one that has become increasingly necessary, particularly in some of the urban centres.

The regulations dealing with prohibiting price discounts have been strengthened and those are the regulations that prohibit happy hours and happy days.

The definition of "manufacturer" was amended to include foreign manufacturers, so that they be subject to the same restrictions as domestic manufacturers with respect to advertising and promotion. As well, there are a number of provisions that allow us to deal more effectively with special occasion permits. We have the authority to disqualify a premise, to refuse to issue permits for a particular location after a hearing based upon evidence of past violations at the premises. As well, we can cancel a permit in advance of the event if there is evidence that the law has been breached or false information provided.

Some of the pending changes that can be accommodated because of changes to the act relate to delivery licences and we are in the process of finalizing regulations in that respect. Delivery licences will authorize an individual to deliver liquor for a fee. That is currently permitted just by written authorization from the LCBO, and basically there are no mechanisms by which you can revoke an authorization currently by bringing it under the authority of the liquor licence board. It will be subject to all the controls and subject to all the procedures for suspension and revocation of licences that exist for other kinds of licences.

We are also currently reviewing the advertising guidelines. I mentioned briefly that advertising guidelines were updated by the board in April 1990 to reflect the advertising principles which were announced by the government 1 June 1989. There is consultation in progress at this time. The advertising principles are currently being reviewed by the minister and the board is involved in that process.

The other major area that requires further regulation is the mandatory server training. Mandatory server training for servers of liquor addresses such issues as the legal liability of servers, factors which affect blood alcohol level, how to recognize signs of impairment and how to deal with a patron who has had too much to drink. Mandatory server training is currently required under the regulations for servers in stadiums, under the caterer's endorsement and where ordered by the board following a disciplinary proceeding or upon approval of an application. The board is currently working with the Addiction Research Foundation and the industry associations to determine a proposal for the implementation of mandatory server training. That proposal should be brought forward to the minister later this spring.

As you can see, we have been very busy in the last few years. In the last few particularly there have been significant changes at the board. There are a number of areas, as I indicated, where further regulations are required.

Another area we have identified as one we wish to address this year is in the area of our communications. We have established a very good working relation with many of the client groups of the board and we have also published a licensee newsletter which is distributed to 15,000 different addresses. That comes out four or five times a year, basically as required.

We would like to work on pamphlets for the general public, to involve the general public more in the processes of the board. We are asking for funding to be able to publish those pamphlets in a multilingual form. That is one area we would like to address, to make the board more accessible to the general public. On that topic, we have also scheduled some hearings in April and May, public interest hearings for specific applications. We have scheduled a few in the evening to see how that works out. Hopefully, that will make it more accessible for people who wish to participate in the process.

The recent amendments did streamline the process and in and of themselves make it easier for people to participate. There used to be a mandatory public meeting, which then resulted in the hearing, which then resulted in a hearing before the Commercial Registration Appeal Tribunal. The public had to attend three different hearings in order to pursue their objection to a licence. They often made the complaint that the system was designed to wear them down, and it was pretty hard to disagree with that. Right now, with the changes to the legislation, a single written objection that says, "I object," will trigger a hearing, and that is the full hearing at which the issue will be determined and resolved. Hopefully, that will make it much easier to deal with this in a more fair, expeditious manner that is open to more people to participate in.

I have covered a lot of territory very quickly. We would be happy to answer your questions.

The Chair: Perhaps before we get into questions, you may want to make some brief reference to the comments the Provincial Auditor made in his last report, especially the one that perhaps received the most public attention, the question of inspections.

Ms Karakatsanis: The board's response is outlined in the Provincial Auditor's report. Basically, the amendments I have outlined to you in the legislation and the new technology of the board have made a real difference. It allows us to deploy our resources far more efficiently. Because there were 13 different kinds of licences, because the licensing issues were so complex, that required a lot of attention by the inspector. A significant part of an inspector's duties related to the licensing and preinspections of premises that had applied for a licence.

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With new technology we are able to narrow the group of licensees or licence holders that are problem locations. We are able to rate them as high-risk and low-risk, and we are able to deploy our inspectors more efficiently. We have changed our inspection areas so that there is more equity in the workload of inspections. There have been a number of things that arise out of the changes to our technology and legislation in September which allow us to be far more efficient and more selective in the deployment of our resources.

With respect to the specific findings made by the Provincial Auditor, I have to say that they are really not very helpful in looking at the issue of whether or not the inspectors are properly fulfilling their compliance function. Saying that inspectors spend 20% of their time on inspections and on spot calls ignores the fact that they also do complaints investigations, liaison meetings with police, meet with local residents, attend board hearings and testify before the disciplinary proceedings. All of those other functions, which are just as important for the compliance aspect of their role, were not something the Provincial Auditor included when he looked at the 20%. The Provincial Auditor was looking at something that was identified as an inspection and as a spot call, and did not include those other functions that were identified as complaint investigations, liaison meetings and other compliance functions.

Just to summarize, with the simplification in the licensing process there will be less demands on inspectors' time with respect to their role in the licensing of new establishments. And with the new regulations and the new resources and new technology, we are able to better deploy the inspectors and focus their attention on the problem establishment. You have some data, Barry, on the number of spot calls and so on.

Mr. Tocher: That is correct. In the current fiscal year we have already been able, because of the changes in the act and the regulations and because of technology, to increase the number of spot calls by 35% relative to the same period last year. This year, we are forecasting that we will complete at least 18,000 spot calls; that compares to roughly 14,000 in the previous fiscal year.

In the next fiscal year, we are expecting an even larger improvement in the number of spot calls, because we will have a full year then under the new legislation and our new technology will have been fully implemented. We anticipate a rather substantial increase in the number of spot calls that will be carried out by our field staff.

Ms Karakatsanis: Another point I neglected to mention is that we do rely very heavily on local law enforcement agencies to monitor and identify problem establishments for us. The majority of our disciplinary hearings rely on testimony from local police officers with respect to infractions they have observed. In many areas, our local police forces have units that are detailed to watch licensed establishments and do routine patrols. The inspectors are really not the only people out there. We do rely on the law enforcement agencies, and there is significant liaison between the inspectors and the various police forces.

Mr McLean: I want to ask a couple of questions with regard to the manufacturers' licences. I do not know whether you have that before you, but it was an order in council in 1990. It has to do with the percentage that is increased year by year. I would like you to explain to us how that percentage would be arrived at. It goes up until 1994, 23.2% for the period beginning 15 June 1994. I was curious, when I looked at it, about how these percentages came about.

Mr Tocher: I believe what you are referring to are the ad valorem fees that apply to small manufacturers—beer manufacturers primarily, the micro-breweries, as we call them.

A couple of years ago, the micro-breweries were concerned that the ad valorem rates established in the regulations were rates that were really set when we had in this province three large breweries: Molson, Labatt and Carling O'Keefe. They argued successfully before the government that those rates were too high, they were unfair. It made it very difficult for a small micro-brewery to get established in this province. They were successful in convincing the government that those rates should be reduced.

So then, under our legislation, the Treasurer through a budget presentation amended the ad valorem rates for micro-breweries. A micro-brewery was defined as a brewery that produced less than 50,000 hectalitres of beer a year. They decided on a sliding scale. The idea was to start

with an ad valorem rate that was 50% of what the rate was for large breweries and then bring it back up to the original rate, I think over a period of three to four years. The view was that that would give the micro-breweries ample opportunity to get off the ground, get established, develop a market and get their product out there. They felt a three- to four-year lead time was perhaps sufficient to allow for that. That was the rationale behind the sliding scale.

Mr McLean: Somewhere in the report I read there was about $400,000 in revenues uncollected. Were those the large breweries?

Ms Karakatsanis: The $400 million?

Mr McLean: Was it $400 million? I thought it was $400,000.

Mr Tocher: No, no. It is $400,000.

The Chair: That is, serving the products of these business establishments. It is in the Provincial Auditor's report.

Mr McLean: Were you not aware of that?

Ms Karakatsanis: I just want to know what it is. I am sorry: $400,000.

Mr McLean: I want to know what it was, too; that is why I am asking the question. The board's revenue and expenditures for the 1990 fiscal year totalled approximately $427 million and $10 million respectively. That was revenues and expenditures, but somewhere I read there was $400,000 that should have been collected and was not. It is on the next page, "fuller application of the liquor legislation."

Ms Karakatsanis: There were two items the Provincial Auditor was addressing. The first one was approximately $300,000 in revenue, which related to ad valorem fees that would have been paid upon beer that was manufactured in the plant and that was consumed under the hospitality licence in the plant.

The interpretation had been that the ad valorem fees applied to beer that was shipped for sale or distribution in Ontario, and that had not included the beer that was not actually shipped out of the plant. It was consumed in the plant under the hospitality licence. Based upon the Provincial Auditor's interpretation of that section, the board requested that the brewers pay those fees going back to April 1989. We made that request in July following the auditor's report. Two of the brewers have not yet paid the fees. The Brewers of Ontario has asked that this be reviewed to determine, first, whether the interpretation of the section by the Provincial Auditor was correct and, second, whether it would be appropriate to collect fees back for a year before that.

We have asked the Attorney General for an opinion on the meaning of that section, and we will take it from there.

Mr McLean: What is your opinion on it?

Ms Karakatsanis: I am a lawyer, and—

Mr McLean: That is why I ask.

Ms Karakatsanis: I think it is likely that they do include the ad valorem fees on beer that is consumed in plant. However, I can tell you there are lawyers who disagree with me. That is not an uncommon situation to be in.

Mr McLean: One final question: In your opening remarks, you mentioned two new positions that were not filled yet. What are they and what is the salary of those positions?

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Ms Karakatsanis: They are positions for two part-time board members. The amendments to the act that went through the House in June and were proclaimed effective September of this past year increased the size of the board from seven to nine, so two part-time board member positions are available. The per diem is $125 per day.

Ms Haslam: I have a note here to ask about a brewery licence. I would like to follow that up, as Mr McLean mentioned it. When you go on a tour of a brewery and they entertain you, am I to understand that is done under a separate licence called a hospitality licence?

Ms Karakatsanis: That is the way it used to be done and the subject of that finding by the Provincial Auditor. The hospitality licence was there to permit someone to give away liquor in a private place. One of the amendments to the act was to permit the consumption of liquor in a private place where liquor was not being sold, a location that was not open to the general public. So presumably these areas will now qualify as private places in the manufacturing plant.

Ms Haslam: Is their licence then a hospitality licence? Are they still licensed?

Ms Karakatsanis: The hospitality licence still exists; they have the piece of paper. But it is not there as a class of licence any more and it would not be required. I think they have become defunct. They would no longer apply.

Ms Haslam: That would take me into something I wanted to follow up on, special occasion permits. It is my understanding that if a group came in and got a special occasion permit for a hall and it was subsequently found out that this hall had been through a previous situation where it had had an infraction, then the group's permit would be pulled. Am I correct?

Ms Karakatsanis: No. The board does have authority to disqualify a premise. We could make a finding that because of past problems at a certain premise, no more permits should be issued into that location. That would only be done after a full hearing, however, and there would have to be an order of the board. So at the time there was an application, the applicant would be told that is not a premise for which a permit can be issued.

Ms Haslam: I have one more question on special occasion permits. There is a training course that caterers must have their servers go through. What happens in the case of the special occasion permit, where a club or a union is having a dance? Is there any regulation about who can serve the liquor in those special occasion permits?

Ms Karakatsanis: No, there is not currently a regulation in that respect. Once server training becomes mandatory for service of liquor in licensed establishments, I think it would be useful to look at a way of phasing in, at least

having one person who is trained supervise the sale and service of liquor at a permit, but that is not currently a requirement.

Ms Haslam: Is it something you will be looking at? Is it something in your mind to examine within the next while, this particular issue? Is that something you have been looking at reviewing?

Ms Karakatsanis: It is something we will be reviewing when we look at mandatory server training. I think you have to look at the requirements under a permit. It is something that would have to be phased in, perhaps for large events. At this point, I think that is the way it could be introduced, for a large function having at least a requirement that somebody be supervising who was trained.

Ms Haslam: So this could be a recommendation that would come forward?

Ms Karakatsanis: It could be.

Ms Haslam: I have some more, but if you are in agreement, Mr Chair, I will pass and come back to some of my other ones.

The Chair: You will have lots of opportunity.

Mr Grandmaître: I would like to go back to the revenue side of your responsibilities. For instance, every establishment has to pay a fee on beer and on wine and spirits, and so on and so forth. On the beer purchase there is a fee, and also on the wine and spirits. On the beer purchase, if I understand my notes correctly, the beer fees are paid to the Brewers' Warehousing people and the wine and spirit fees are paid to the LCBO. Are those fees the same?

Mr Tocher: I am not sure. Which fees are you referring to?

Mr Grandmaître: In the auditor's report on the revenue side, the auditor was claiming that your fee collection—"licensed establishments pay fees on the purchase of beer, wine and spirits. Fees on purchase of beer are paid to the Brewers' Warehousing company and on purchases of wine and spirits to the Liquor Control Board of Ontario. Such fees are remitted to the liquor licence board." What I am getting at is, are brewers paying the same fees as the wine and spirits people?

Ms Karakatsanis: I am not sure what they are. When the licensee orders product from the liquor control board under his licence, or from the Brewers' Retail, there is a slight—I am not familiar with the exact numbers; we can provide you with that—discount and then there is a fee, a percentage, added so that effectively the licence-holder pays more for his or her product than would you or I if we went in and bought the same product over the counter from the LCBO or from the Brewers' Retail. So they are paying extra. I am not quite sure what the numbers are. I think they differ between the LCBO and the Brewers' Retail. That is something that is administered by the LCBO. It is remitted to us; not under our legislation, but it is administered by the liquor control board and then remitted to us.

Mr Grandmaître: Because further in my notes, from the three largest brewers in the province of Ontario they claim, or my notes claim, that they collect about 80% of all your revenues, $350 million. I was curious what the rest of the small brewers pay. I know it is 20%, but I was interested in the different fees that they pay. There must be a different fee on beer and wine and spirits.

Ms Karakatsanis: The ad valorem fees, which are the fees that are levied on volume produced by brewers, are the $376 million referred to. It is the smaller brewers that have the sliding scale which was referred to earlier. That is different from the fees paid by licence-holders when they purchase the product. The ad valorem fees are paid by brewers based on volume of production. The holders of a manufacturer's licence for wine or spirits do not pay ad valorem fees.

Mr Grandmaître: Okay, good, for the time being.

Mr Frankford: I was going to ask questions on the same lines, because I was not clear. Your revenue is $400 million, in that range. Am I right in thinking that in effect the largest revenue source is essentially a tax on beer?

Ms Karakatsanis: We call it a licence fee on beer, but yes, it is.

Mr Frankford: In essence you are a tax-producing body. I mean, the licensing of premises for consumption attracts more attention. In revenue terms that is a very small proportion.

Ms Karakatsanis: There is no question that the bulk of the revenue comes from the ad valorem fees paid by the brewers, yes.

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Mr Frankford: So that happens to come through you, but it could also be a tax.

Mr Tocher: We are just a collection agency for the Treasurer. Most of our revenue comes from Labatt and Molson, by and large. It is the manufacturing levy under section 16 of the act. There is a sliding scale. It accounts for most of the $450 million.

Mr Frankford: What about revenue from foreign beer, say, or foreign wines? That would be collected by the LCBO. Is that right?

Ms Karakatsanis: We do not collect any licence fees from foreign manufacturers at all. Whatever revenue comes to the government would come through the LCBO on that.

Mr Frankford: So that is taxation in another form.

Ms Karakatsanis: There is an issue there as to whether the province has jurisdiction to tax beer. This is viewed as a licence fee.

Mr Frankford: What about wine?

Ms Karakatsanis: There is no ad valorem fee, there is no volume fee for wine, just beer.

Mr Frankford: Am I correct then that although one thinks of you very much as giving licences for premises and inspecting them, a large part of your impact on government is through your essentially tax-collecting function?

Ms Karakatsanis: Yes, except that also represents a fairly small part of what we do in terms of our operations.

Mr Frankford: Because it is automatic.

Ms Karakatsanis: It is. It is automatic. It is really a collection agency, so it is a fairly small part of our operations and our priority—I should not say our priority; it is something that is important and that is done, but it does not require a lot of attention, it is automatic.

Mr Frankford: Who sets the fees, then?

Ms Karakatsanis: It is set under our regulations, basically, by Treasury.

Mr Frankford: So the Treasurer, in a budget, can change the fee.

Mr Tocher: He has to do it by regulation.

Mr Frankford: But if a Treasurer wants to raise more money from beer next time, he tells you.

Ms Karakatsanis: It can be done through here, but it would require a regulation change, so it would have to be something passed by cabinet.

Mr Grandmaître: When was the last time the regulation was changed? I was just interested in the use of this as a tax-raising measure. When was it last changed?

Ms Karakatsanis: The last change was in September 1990. The actual rate was not changed at that time. There were some changes again in January to reflect the GST.

Mr Tocher: That is right. There was some adjustment to the ad valorem to take the GST into account and I think it was overall to remain revenue-neutral in terms of taxation on breweries. You will see some changes in the rates, but in actual fact the overall tax that is collected is supposed to be neutral.

In terms of changing and adjusting the ad valorems, I guess the last change was back two or three years ago, when as I mentioned before the small micro-breweries were concered about the ad valorem and that it was too high, that it did not really reflect the small micro-brewery operation. The government did bring in a different ad valorem structure for small micro-breweries. That is reflected in the regulations. It is a sliding scale and it is to be phased out over a period of several years. So that was the last sort of major change to the ad valorem fee structure for breweries.

Ms Karakatsanis: Actually the September regulations also added two new features. One is that interest can be levied at essentially prime plus two on overdue accounts, and as well there is a penalty provision for payments that are more than 30 days overdue. We have been assessing interest, but it is now in the regulations.

Mr Waters: I have a question on advertising, on the criteria. Do you have to report to anyone, or does government give you direction or anything on the type of advertising that is allowed?

Ms Karakatsanis: One of the recommendations of the advisory committee was that the advertising principles be made regulations. It is something that has to be done. The principles themselves were decided by the government and announced by the government 1 June 1989. The board took those principles and published guidelines, which basically are interpretative guidelines of those principles that the government had announced. Something like that, which affects the industry as a whole, is referred to the minister.

Mr Waters: I guess where I have concern is partially over advertisement; it is partially, I guess, over enforcement. I represent very much a tourist riding and every summer I see carnage in the lake. Thank God we do not have sharks because they would be attracted by the blood. There seems to be virtually nothing being done about this. We hear the reports of people being run over, especially since we have got these big offshore boats. I was wondering if the board had been looking at any of this.

Ms Karakatsanis: Off the topic of advertising, but dealing with carnage in the lakes, one of the changes to the legislation was that open liquor could not be conveyed in an unlicensed boat. It used to be that if you had a boat that had sleeping accommodation, it was legal for you to be drinking on the boat even while you were using it as a means of transportation. The changes to the act treat boats in the same way motor vehicles are being treated. If it is under way, if it is being used as a means of transportation, then you cannot drink on the boat and you cannot have open liquor in the boat. It has to be in stored containers or in sealed bottles. So that is one thing that had been identified by the police as a problem, and it was as a result of their recommendations that change came about.

With respect to the advertising itself, as I say, the rules should be in regulations and I believe it is the intention that the rules be put into regulations. The content of those regulations is currently being reviewed.

Mr Waters: With the boats in my riding, I think where the biggest problem—I think Mr McLean across the way probably has the same type of problem; all of us do on the Great Lakes—is not so much the consumption on the boat as the consumption at the bar. They float in on an offshore racer, leave the bar, get it up like this and run over somebody in a little boat. I know of places where this has been going on and there seems to be virtually nothing done about the establishment that these things are coming out of.

Ms Karakatsanis: If the police send us a report, then it is something we do follow up, and we will do an investigation, or if we get a complaint from a resident or from anyone about an establishment serving people to the point of intoxication, then we will send in an investigator and an inspector and we will follow it up, and that will often initiate disciplinary proceedings. It is an offence, of course, under the Criminal Code to operate a boat while you are impaired and that is something the police use to police that particular matter.

Mr Waters: The reason I am asking this is that I can probably name a few.

Ms Karakatsanis: I will take the names later.

Mr Waters: No, thanks. But this type of thing has been going on for a number of years, and I do not see any changes, to the point where the police park outside these places on water and on land. There are no changes and I am just wondering how much enforcement the board itself actually does with these things.

Ms Karakatsanis: The change to the act is from September, so it may make a difference next season. The police think that will be a big assistance, because in the past

they have gone to boats and found liquor but nobody has actually had it in his hand, and they could do nothing. So perhaps next season that will be of assistance.

We do about 240 hearings a year and our priorities in terms of problems in licensed establishments are two: serving of underaged persons and serving people to the point of intoxication. Overcrowding comes close, but those are the two main ones. We do suspend people's licences where it can be shown that they have served them to the point of intoxication. As I say, we follow up on all complaints and we deal with it in the disciplinary proceedings.

Mr Waters: Okay. I will have some more after.

Mr McGuinty: Would you tell me, please, who is required to obtain a special occasion permit?

Ms Karakatsanis: If you are drinking in a place other than your home, if you are drinking in a place that is a private place like an office or a boardroom and you are not selling it, then that is fine, but if you are ever selling liquor, if you are drinking in a place other than your home or a private place, then you need to have a permit or a licence, or you can actually do it under the authority of a caterer's endorsement to a licence. Basically, with any sale involved you need a licence or a permit. Even when there is no sale involved, if it is outside your home or a private place, you need a permit or a licence.

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Mr McGuinty: Is that working? It seems to me—I would like a comment on this—that maybe the government has gone a bit too far there. If a group, for instance, of 10 people get together and they rent a small hall and they are going to serve liquor but there will be no charges involved, are they required to obtain a special-occasion permit?

Ms Karakatsanis: They are unless the hall is licensed. One of the frustrating things in the past was that a banquet hall was not eligible for a liquor licence. They are now eligible, so you will find a lot of those halls that previously did not have licences will have a licence, which will make it far more convenient, of course, for the group that is renting that hall.

Basically, there are three options: You can go and get your permit, you can go to a licensed banquet hall or you can go to an unlicensed location and find a licence holder who has a caterer's endorsement who will serve liquor to you. So the options are broadened. Before September, you had two choices: You went to a licensed facility or you got a permit. The choices are much broader now.

Mr McGuinty: Do you have any notion of how many people should be obtaining special-occasion permits, but are not?

Ms Karakatsanis: Before the law was changed to make it legal to drink in your private office or boardroom, I would have said there was an extraordinary number of people who were drinking without obtaining a permit. It was well known. Now that it is legal to consume in those kinds of private premises, my guess would be that most people obtain a permit. It is fairly well known, but I do not have any information on that.

Mr McGuinty: Tell me, please, if I can pursue this a bit further, what is the thinking behind the necessity of applying for a special-occasion permit for a private function where they are just simply serving liquor, a small group particularly?

Ms Karakatsanis: I guess that by making consumption legal in a private place there has been a recognition of the fact that where no sale is involved and it is essentially an extension of your private residence, you should not have to have a permit. When you go into a banquet hall, however, and that is specifically excluded from the definition of a private place, you are talking about a location where somebody is making his living renting out the facilities for use during functions where liquor is sold and served, and generally those are the kinds of locations that should be in compliance with the liquor legislation and where typically there have been problems in the past.

Certainly the law enforcement agencies identify permit functions, those kinds of functions, as being the source of a lot of difficulties, a lot of service underage, service to the point of intoxication. There have been a number of inquests resulting from deaths that occurred as a result of overservice at permit functions.

It is an area where I, frankly, would prefer to see those functions conducted—if they are truly private in a private place, that is fine, but if it is as part of a business then I prefer to see it conducted under a licence, because those people who hold licences have expertise. If they breach the rules we know where to find them, and they have something to lose. The problem with permit functions is that if there is a problem at an event, we can issue an order that they not be given another permit, but it makes no difference because their neighbour or their friend or their spouse or their brother or sister will just apply for the next one. Effectively we do not have that control in permit situations. I have gone beyond your question.

Mr McGuinty: I think what you are telling me, and correct me if I am wrong, is that you would prefer to do away with the opportunity for a private individual to apply for a special occasion permit.

Ms Karakatsanis: I think the opportunity has to be there, because it is not always going to be convenient to go to a licensed hall or a caterer's endorsement, and there are some smaller communities where they may not have licensed halls. I think the option has to be there to accommodate those people for whom it is more convenient.

Mr McGuinty: But if that person applies for that permit, he does not receive any special education or training; it is just essentially paperwork.

Ms Karakatsanis: They do not receive any training. There is a pamphlet available to them at all the liquor stores. It is a bulky pamphlet, which I am sure most people do not take the time to read. We are hoping to design one that is a little less intimidating and that could be read a little more readily. That is going back to the issue of what training should be provided, and it is now essentially private functions. Those are not typically the problem kinds of events. It is usually the larger events where you are

going to find problems, and that is the area where we should look at the issue of training eventually.

Mr Hayes: I notice that from 1986-87 you had 155 office staff. It went up in 1987-88, for one more person. Between 1988 and 1989, you had 149 people on staff; that is reduced by three people. Is that through attrition, three people retiring?

Mr Tocher: Basically, a turnover in staff.

Mr Hayes: You have less staff, yet from the 1988-89 to 1989-90 budget you have increased by over $563,000. Is this for severance pay or something? Could you explain, because in 1990-91 it appears you are going to have 140 office staff. You would think that when you reduce the staff the cost may go down, but in this case it does not appear that way and I am just wondering what the reason would be.

Mr Tocher: With the figures for the last couple of years, you are comparing apples and oranges. We went to Management Board, I believe it was back in 1989, and received additional funding to implement the changes to the Liquor Licence Act. We received a large amount of money to computerize the functions of the board. Some of that money was for contract staff, some of it was for consultants, so even though our regular staff strength has been dropping we have had an injection of special funding for a period of a couple of years to bring in the changes to the act and the regs and the technology. The staff we hired to do that were primarily consultants who were coming in and out. Contract staff does not show up in the regular head count of the board. Our actual staff strength today is around 148 or 149 people.

Our salary budget actually will drop next year to reflect the fact that these projects are complete. In fact, our total budget next year is going to be somewhere slightly over $9 million. It reflects the fact that the computerization and the implementation of the act and the regs has been brought to completion. Our budget will actually drop and will reflect the number of people we have on board on an ongoing basis.

Mr Hayes: I see here that even for your services, you have a $176,000 increase there too.

Mr Tocher: That is right. We bought a minicomputer. We had to hire outside consultants, we had to hire people to produce all the new procedures manuals. We redesigned all of our forms. A lot of that work was done with outside help and contract staff.

The Chair: Do you have the ability under the act to charge the LCBO if it in some way, shape or form violates the provisions of your act?

Ms Karakatsanis: No. Our jurisdiction is just over licence holders.

The Chair: What is the relationship between your board and the LCBO?

Ms Karakatsanis: We are two completely independent bodies. We do have a co-operative relationship in the sense that senior management meets regularly to discuss issues that are of mutual concern. They do refer to us their advertising and promotions when they are in doubt, or if there is anything special they are considering doing they will refer to us for advice in that area. Barry, perhaps you want to address the actual liaison between the two.

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Mr Tocher: We have set up a formal structure at the management level. The senior management of the liquor licence board and the senior management of the liquor control board get together on a quarterly basis. We have a formal agenda and we discuss issues of common interest. Things on that agenda might include, for example, problems we are having in issuing permits through the LCBO store system, or there may be issues with regard to some of the things we are going to be taking over in future, such as the delivery licence the LCBO is now issuing and we are going to be taking over.

There may be some policy issues we are working on jointly. The question of advertising is something we work closely with the LCBO on. In fact, our manager of advertising and promotion sits on a special committee the LCBO has that reviews all its advertising. We are plugged into their—

The Chair: That gives us a general idea that there is a fairly close relationship. What I was getting at essentially was that the idea of why there is a necessity for two separate boards was raised this morning in our briefing session. Has there ever been a review, to your knowledge, to take a look at the feasibility of having one board rather than the two?

Ms Karakatsanis: It was one of the issues addressed by the Advisory Committee on Liquor Regulation. There would be a real conflict of interest, I think, if you combine the two boards into one. The LCBO is a revenue producer. Its function is to sell liquor. It markets it, it produces a lot of revenue, it is a marketer. We are the regulators. Our interests will often result in decreased per capita consumption of liquor. There is a real conflict of interest, and I think to combine that under one board would mean that the commercial side would dominate. There are 5,000 people on the commercial side, and I think they would really overshadow the regulatory side.

There are three liquor boards across the country that are joint, that do have under one board a commercial and a licensing function, and the remainder have separate boards.

The Chair: Until now that argument has held sway in Ontario.

I think it was last year that Labatt was fined $500,000?

Ms Karakatsanis: Last January there were proceedings against Labatt on a number of bases, including failure to obtain approvals for some of its advertising and for promotions that were not permitted under the legislation. Labatt admitted the allegations at the time and there was a joint submission by counsel for the board and Labatt which resulted in the decision of the board, which included a term and condition for the payment of $400,000 to be donated to charitable organizations for alcohol and drug abuse programs, and also included the prohibition of Labatt from advertising its Labatt's Blue and Labatt's Blue Light for a period of three months, 4 January to 2 April.

This was the third time Labatt had been before the board for violating the legislation, which of course is reflected in the severity of the fine.

The Chair: I was just curious about the severity of the fine. Some of us sitting on the sidelines are looking at what certain polluters in the province, for example, have been hit with in the past, etc. I guess it is a pretty subjective thing. How did you arrive at that figure?

Ms Karakatsanis: There were a number of previous decisions of the board relating to brewers. It started off with, I believe, a decision against Amstel which required a payment of—was it $50,000? I cannot remember what the figure was, but there has been an increment with each proceeding. The first one involving Labatt in February 1988 provided for the contribution of $120,000 to designated alcohol treatment prevention organizations. Then there was a further hearing in December 1988 which prohibited them from engaging in certain promotional activities for a period of two months. There were proceedings against Molson in December 1988 which required either a $300,000 or $350,000 payment to alcohol abuse programs. So you can see the increment in the proceedings.

The Chair: Just a question of process. When the board or whatever group within the board has reached a conclusion about the size of a fine, do you run that by your political masters?

Ms Karakatsanis: Absolutely not. When it comes to the actual application of the act to individual circumstances, the board is completely independent. When it comes to broad policy or making the legislation, that is a function for the government and the Legislature, not the board, but with the actual hearings we do, the members conducting the hearings are those who make the decision. I would not presume to tell members what decision to make in a particular case.

The Chair: To follow up on that, tying in what you have just said with the speedy issuance—to some people, in any event—of the SkyDome licence, which seemed to be expedited, I guess there were questions in the minds of some people about how that was handled so quickly when other matters would face a lengthy ordeal, if you will.

Ms Karakatsanis: You see, there is no category of licence called a stadium licence. Before we can issue a stadium licence, it has to be done by regulation. So that has a political component. We look at the application, we look at the facilities, we ensure they comply, in the same way we would any other licensed area, but the decision whether or not to issue it has both the requirement for approval by the municipal council, approval by the board and of course requires a regulation change, which means it is the government's decision.

In the case of the SkyDome, there was an advertisement. The actual application for the licence was in many, many months before the licence was issues. I could get you the exact number of months, if you like. I do not think you will find that from the date of the application to the issuance of the licence it was any quicker than any other licence. Perhaps the process for actually passing the regulation was quicker, but that is something that is outside of our particular responsibility.

Mr Grandmaître: On licensing, I know you work very closely with municipal police, the Ontario Provincial Police and the like. Do you consult police commissions before you issue a licence?

Ms Karakatsanis: No. We advise the municipality. We give them a chance to object. We require some information from them, as a matter of fact, whether the status of the area is wet or dry. They have to advise us if the premises are in compliance with the health and zoning bylaws. We go to the health and the fire people for compliance letters in those respects. We do a police check on all applicants, so police are advised of all the people who apply for a licence, but we do not check with police commissions per se. I do not know what they could add to the proceedings, when the police themselves are clearing it. It has never been suggested before.

Mr Grandmaître: Sometimes police commissions know things that the police departments do not know. That is why I was asking my question.

If you were to receive a resolution from a municipal council objecting to a licence, what would you do?

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Ms Karakatsanis: Objecting to a particular application? We would consider that as an objection which would require a public hearing. It would go to a hearing. The board cannot delegate the issue, about whether the issuance of a licence is in the public interest, to a municipal council. The board under the act must make that determination on its own. However, a resolution of the elected council of a municipality would be very cogent evidence, in my view, of what the needs and wishes of the residents in that municipality are. Where there is a resolution objecting to a licence, it has much more force than another objection just registered by an individual, but it does not determine the issue.

Mr Grandmaître: If a municipality were to enact a bylaw restricting the number of establishments in a community, how would you react to this kind of bylaw?

Ms Karakatsanis: There have been two resolutions passed in Toronto requesting the board not to issue licences in a particular area. That would be treated as an objection to any application in that area. If the municipality passes a zoning bylaw, then the board would not issue a licence if it were not in compliance with the zoning bylaw. Before the board can issue a licence, premises must be in compliance with zoning bylaws of the municipality. That is in the regulations. Even if the board approves an application, it is always subject to compliance letters from the municipality in that regard. If we do not get the compliance letter, the licence is not issued. If it comes by way of a zoning bylaw, then that determines the matter. A municipality can, for example, say, "In this particular area we will not permit licensed establishments," and that would prevail.

But a resolution would fall into the previous category I mentioned. It is an expression of an objection, in which we would not have jurisdiction, just to delegate to them. I

have to tell you, they are the hardest kinds of hearings, the public interest hearings. It is very difficult to do.

Mr Grandmaître: I know. I have tried it and it did not work. Maybe I should talk to you after.

Mr Frankford: This committee will be looking at appointments to boards and commissions in a general way, so I was wondering if I could ask some questions giving us some guidance on that.

Looking at the résumés of the members, I do not see any particular pattern except that several of them seem to be lawyers.

Ms Karakatsanis: When we do our hearings, I like to have at least one member of the panel who is a lawyer. I think it is important to have lay members, because lawyers tend to have a very particular perspective on things and it is good to be reminded of the real world from time to time. It is important to have that mix. But I think it is also important, when you are doing a hearing, where both parties are usually represented by lawyers, that you have one of the members as a lawyer. That is why you find more lawyers and that is why I would view an ideal board as having half the members as lawyers.

The chartered accountant comes in very handy. One of the things we have to look at is financial irresponsibility if it is going to impact upon the operation of a licensed establishment. Certainly, in proceedings we have taken for outstanding fees, it has been invaluable to have somebody who has better expertise in understanding some of the financial evidence that comes before the hearings.

With the remaining board members, you will see it is roughly half and half in terms of gender. There is representation from some of the ethnic groups that are traditionally represented in the hospitality industry. We have somebody from the Chinese community—actually we have two people from the Chinese community right now—we have a francophone, I myself have a Greek background. We have somebody from Goderich, somebody from Hearst, somebody from Ottawa—there is geographical representation—from Cobourg and Toronto. I do not know what would be a perfect mix, but right now the board is really a very professional group of people.

If you are asking me about guidance with respect to the two new positions—

Mr Frankford: I do not want to talk about the particular positions. Let me pick up on your saying some groups that have been represented in the hospitality industry. Could it not be argued that that is inappropriate? Should it not represent the consumers rather than the—

Ms Karakatsanis: Okay, I think you have to represent everybody. Two of our members have served on municipal councils in the past. One of our members was a solicitor for the council. Another one was responsible for bringing up to Kapuskasing the first hostel for battered women. There is a lot of community involvement and community experience among the members and I think that is a very important component. I would like to see perhaps somebody from the public health aspect on the board as well. But I think there has to be some understanding of how the industry works as well and when I refer to the ethnic mix, I think you have to understand your constituents and the ethnic mix is there in the general public as well.

Mr Frankford: But is not the main impact of licensing premises on, shall I say, town planning, community development, how many pubs or whatever you have? Surely that is more an impact on an area. I do not really see why it is a public health concern. It relates to the character of towns, whatever.

Ms Karakatsanis: I guess it has been my experience that people consider themselves experts on liquor. Everybody feels they are impacted by liquor. Residents feel very strongly about licensed establishments that are in their backyards. Police are concerned very strongly about establishments that are problem establishments, where there has been overservice or service to minors. Municipalities are concerned when it becomes a land use issue. I think it has a very broad impact and I do not think that it would be fair to characterize it just as a land use issue; it really covers the whole spectrum, in my view.

Mr Frankford: Our understanding is that the government will be taking applications. Can you envisage the sorts of people who will be applying to get on this particular board?

Ms Karakatsanis: As I say, I would have to say that I would like to see somebody from the public health perspective and perhaps—it is really not my place. The appointments are made by the government. I as chairman can identify a particular need and one that I can identify is the need for a public health perspective, but it is really not my place to—

Mr Bradley: I would like to look into the matter of how you control drinking under age in establishments and what penalties you have. It would be a casual observation of many people in the province of Ontario that, despite all of your efforts, there are still people who are under the legal age for the consumption of alcohol who are doing so in the province of Ontario, in various parts of the province. Recognizing that we do not have a million-person police force or that you do not have all the people you would like to have, how do you control that, first of all? And second, when you have found a violator, what penalties do you apply to that violator?

Ms Karakatsanis: I mentioned earlier that that is a priority and it shares first place, I think, with overservice, service to the point of intoxication, so that is a priority with the board.

A number of the recent changes assist us, I think, in controlling that area. One of the ones I mentioned earlier was the new obligation on a licence holder, a new offence, that prohibits them from allowing a minor, somebody under the age of 19, to have or possess liquor in the licensed establishment. There is a new offence—it is not exactly new; it has been broadened—where nobody can present false identification to pass themselves off as legal drinking age. You attack it from the point of view of the person who is under age who is giving false identification.

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We do have disciplinary proceedings—if I can just refer to the statistics for a moment. To date, of the 394 proposals issued, and that includes public interest proposals, 40 of them would have related to minors, the service of minors in licensed establishments. The penalties, of course, vary in court. If a licence holder is convicted, then there is a minimum seven-day suspension. It very rarely is that the actual holder of a licence is convicted. It will often be a manager or a principal of a corporation or a waiter who is convicted.

Just from my experience of sitting on the hearings, I can tell you that if somebody comes before us for the first time with a service of a minor and they had a previously good record with the board and they have taken steps to prevent it but somehow the minor was there, they would be looking at something in the range of a five-day to seven-day suspension. The second time they are up, the proposal is issued for—they might have a 14-day suspension and the third time the proposal is for revocation. The suspension means that they have to post a big yellow sign on their premises saying that they are not permitted to sell and serve liquor by way of board order. The minimum fine in provincial court is $500 and often we find that a suspension, even of five days, has a much greater financial impact on a licence holder than would a $500 fine or a $1,000 fine.

Mr Bradley: In regard to the other problem you made mention of—and I think you mentioned that you had talked about this a bit perhaps in your initial remarks or in response to some questions, so if you have spent a lot of time on it I do not want you to have to repeat it very much—but the second issue which is coming to the forefront, more because of legal suits than anything else, is in fact the control of those who are consuming beverages on a premise, and we recognize that it is a difficult thing to do in some cases for proprietors. How are the changes being effected now in that regard, getting better control over people who drink to excess and then become either violent or become a problem when they leave the premises?

Ms Karakatsanis: One of the measures I think that will go a long way both for this issue and for the previous issue, minors, would be server training. I briefly indicated the nature of the topics covered in server training. There is a server training course currently offered by the Addiction Research Foundation. It also goes into what the law is. There are regulations that say you would be wise to accept, or it was a defence to accept certain kinds of identification, photo identification only. Server training, I think, is probably going to be in the long term the most effective way to get at it. I am not sure that I answered your question fully.

Mr Bradley: This is a very difficult question as well because it is going to vary. How much co-operation do you get from police forces in dealing with people? Obviously, a waiter or waitress may have a difficult time dealing with somebody who has consumed a lot of alcohol beyond that which would make the person legally able to drive, perhaps to the extent of becoming either obnoxious or violent or otherwise troublesome within a bar. Is there a reluctance of police? Do they see that as a business of the bar or do you get the co-operation of the police in a general sense in dealing with those matters?

Ms Karakatsanis: I think in a general sense there is a co-operation with the police. I think there is also somewhat of a reluctance on the part of a licence holder to call in the police for assistance if he feels he can handle it himself. They are always worried about charges that might be laid, consequences, but we definitely advise them through our seminars to call the police if they need assistance. We point out to them that they do have the authority to ask somebody to leave if they feel that that person is going to be a problem. Often they are concerned about exceeding their jurisdiction. They say, "Well, can I throw anybody out just because I think they're going to be a problem?" So that is something we do try to advise them on through our training and our licensing newsletters and so on. Most of the police forces are quite co-operative.

Mr Bradley: That leads into the question of the control of bouncers, for want of a better word, who are employed by these establishments. Many of them, as you say, do not want police in there because the police may observe something else they may press charges on, or if there is a melee in the establishment it is bad publicity if the only flying saucers in the community are not those which eccentrics see out their windows, but rather are flying around the beverage room and therefore they employ bouncers.

What kind of control do you have over bouncers, because again, you read various stories about bouncers who have—Well, they do not have an easy job by any means. Sometimes the people who will take jobs as bouncers are bullyboys, and we hear of people being badly injured or sometimes even fatally injured as a result of bouncers' activities. Do you have any control over bouncers?

Ms Karakatsanis: We do not control the employees per se; however, we take the position that the licence holders have to discharge their responsibilities and obviously do so through their staff. They are, in most cases, responsible for the actions of their staff. We have had proceedings where we have brought a licence holder forward because of unlawful activity by the bouncers, including assaults. Ultimately the licence holders are told they are responsible for what happens in their licensed establishment. Over the bouncers, per se, we have no jurisdiction over employees. Our jurisdiction is over the licence holder.

Mr Bradley: You also have a problem, or people have a problem with neighbourhood noise and litter and activities; beer bottles flying through windows or broken glass or something. What control do you exercise on licence holders to ensure that there is not excessive noise which keeps people up in the neighbourhood?

I recognize that there is not much control over the noise within the establishment, even though the eardrums are being adversely affected perhaps, but there are neighbourhood problems where noise exists in a residential neighbourhood, particularly where the hotel or the establishment was there first and the local municipality sees fit to have houses built beside the sewage treatment plant at one end of the city and right beside an established premises the

next time, which speaks to municipalities and their zoning bylaws. How do you control that?

Ms Karakatsanis: We have the jurisdiction to attach conditions to a licence or to suspend or revoke a licence if the continuation of a licence is not in the public interest, having regard to the needs and wishes of the residents.

Probably the biggest problem in cases such as those is identifying that the people who are causing the problems have come from a particular licensed establishment. That is particularly true where there is a concentration of licensed establishments and it is very difficult to establish that in fact they have come from a particular licensed area. So that is a practical problem.

We do follow up on complaints by residents and there have been hearings where licence holders have been either suspended, where it was felt that they were not concerned at all about the impact of their operation on the residents, or where an early closing has been imposed upon a licensee. But, as I say, it is very difficult to make out a case in those circumstances.

Mr Bradley: Two questions in this regard; the Chairman led into this a while ago or made reference to it to a certain extent. What has been the experience of the board with its licensees who are licensed to serve alcoholic beverages in sports stadia in the province of Ontario? We have the Dome, which is one place; I guess you can serve it at football stadiums—is that not correct?—Lansdowne Park, I suppose, and—

Mr Grandmaître: London.

Mr Bradley: —London now. Number one, what has been the experience with that as far as the board is concerned? And number two, what action are you at least thinking of to ensure that those who wish to can enjoy the game without loud, obnoxious, obscene louts interfering with the enjoyment of a game for people in a family? Are you encouraging or now requiring that there be sections where the drinkers do not go and that somebody can go with the public? If they want to do that I guess they do it, but I guess I feel for people who feel they cannot take the family any more because of the drinking.

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Ms Karakatsanis: There are the regulations. Changes to the regulations require that there be non-drinking areas in various price ranges. We go over the plans with the stadiums to make sure that there are a reasonable selection and reasonable seats. We have done that with all the licensed stadiums and there are non-drinking areas, or what we call dry areas, in all of the stadiums at the various price ranges and the seats are not bad.

As well, with the recent changes to the regulations under stadiums, all servers of liquor plus the security personnel have to be trained. So they have all undergone server training. All the people you see dispensing liquor and the security personnel in the stadiums have been trained.

The experience of the board, and obviously it is something that has to be monitored quite closely because of the volume, just the sheer number of people you have, is that if there is a problem the scale is just so large. We monitored very closely the most recent licensed Labatt Park in London, as well as the SkyDome, and really there were very few problems. The police are very much involved. There are paid-duty police involved in the operations. There are regular meetings between the inspectors, the police and the stadium owners and there are not that many problems.

I believe there are five or six stadiums now which are specifically licensed by regulation: SkyDome, Varsity Stadium, Exhibition Stadium, which is not currently operating, Ivor Wynne Stadium in Hamilton, Lansdowne Park in Ottawa and Labatt Park in London.

Mr Bradley: One control, most people who have been to the Dome would agree, on the consumption of alcohol at the Dome is the prohibitive price of the beverage being offered and that occasion is enough to drive anybody away from those places, if they wanted to go there in any event. There are other places, however. We may have noticed local arenas have a room or something at the side. I was in the Kitchener arena once and there is a room where you can go to drink. In Hamilton's Copps Coliseum I remember there—

Ms Karakatsanis: We had problems there.

Mr Bradley: —they have places where you can go to consume. Is that fairly prevalent now?

Ms Karakatsanis: That is different from the stadium licence, or the licence in the stadium, which is where all the stands are licensed. In Copps Coliseum, for example, there is a regular licence issued to an area which is partitioned for the sale and service of liquor. In the stadium operation, liquor can only be sold and served during professional football, baseball and soccer games and that is it. In these other locations which have a regular licence, which are not in the stands, they can be open regular hours.

We have had some problems from some of those locations, and there were proceedings against Copps Coliseum. They had certainly taken many, many steps to ensure that the problems encountered in that particular case would not be repeated, and those steps were persuasive to the members who were hearing the actual case.

Mr Bradley: What about licences near schools? We hear stories sometimes from teachers who say that some students may come back from a local nearby establishment, if it is within walking distance—not that it has to be a bar in itself or anything—in worse condition to do their work than when they left, say, at the beginning of lunch hour. Is there a general policy you apply? What criteria are there, as far as licensed establishments particularly near secondary schools?

Ms Karakatsanis: If there is an objection to an application on the basis that it is near a secondary school, then that is obviously a very relevant factor and it is considered carefully. What would be looked at in those circumstances is the nature of the operation, whether or not students would be welcome or likely to attend and so on.

There are, for example, cases where obviously the price and the menu of a licensed establishment are not likely to cater to students, and perhaps restrictions on a

licence would make it so that it does not pose a problem. But it is definitely a relevant consideration. I cannot say that there is a general policy. Every application is looked at on its own merits by the members looking at the application, but I can tell you that it is a factor that would be considered seriously by the board members.

Mr Bradley: A final question, because the Chairman may have other names on the list of people who want to ask questions: I heard you mention as well the character of applicants. How do you ensure that a member of organized crime or an otherwise disreputable person does not get a licence or have an interest in—if not the name on the application—the operation of an establishment? How do you do that in light of the freedom of information and privacy acts that we have and the stipulation that someone's record does not stay for ever and ever, amen?

Ms Karakatsanis: We do police checks on the applicants per se.

Mr Bradley: Can the police supply you, though, with the information you want?

Ms Karakatsanis: We make the applicants sign consents. It is part of the application process. They have to consent. You see, it is a right to have a licence, but it is qualified by the public's right that it not be issued to somebody whose past conduct is such that it would provide reasonable grounds for belief that he will not carry on in accordance with law, honesty and integrity. Clearly it is the board's duty to look at somebody's past conduct, and therefore we require that the applicants consent to the disclosure of their police records by police. It is also a question on the application and on the documentation that we ask them, "Have you ever been convicted of a criminal offence?" which is a sworn application. So we have their sworn statement which we double-check through the police.

One of the problems we had identified was a situation where, for the applicant for a licence, his or her record came to light and suddenly the application was amended, and the spouse or the mother was suddenly the applicant. That made it very difficult, obviously, because of the rights of the actual applicant who was involved. One of the amendments to the act was designed to let us get at those kinds of situations. We can look at the past conduct not only of the applicant, but of anybody who has a significant managerial or financial interest in an establishment. So where we have reason to believe that there is a problem or where the manager is identified by police, for example, as a problem, then again we can look at his past conduct, which is something we could not do before without actually making a finding of fact that we felt he was the actual applicant.

Ms Haslam: Thank you, Mr Bradley, for asking one of my questions again. I would like to ask maybe just one supplementary. What are the present criteria for determining reasonable grounds for non-issuance of a licence?

Ms Karakatsanis: It is set out in subsection 6(2) of the act. I will just refer to it to make sure I do not miss anything, although I know that by heart. A person is entitled to a licence except if (a) "having regard to his financial position," he "cannot reasonably be expected to be financially responsible in the conduct of his business"; (b) he is "not a Canadian citizen or someone lawfully admitted to Canada for permanent residency and ordinarily resident in Canada." The same applies to directors and officers of a corporation. (d) The past conduct of the persons referred to—that is the broader group I just indicated—"affords reasonable grounds for belief" that the applicant "will not carry on business in accordance with law and with integrity and honesty."

In addition to the police check, we ask whether or not they have ever held a liquor licence and then check that file to see if there were any problems with their previous operations or other operations. We check for a false statement on their application or if they are carrying on activities that are or will be a contravention of the act or regulations—the premises, accommodation, equipment, facilities must comply with the act and regulations—and then finally, the public interest that I mentioned earlier, whether the licence is in the public interest "having regard to the needs and wishes of" the residents "in the municipality in which the premises is located."

I should mention that in order for the board to refuse a licence, it must make a finding that they are ineligible under one of those bases, and the onus is on the board or board counsel to lead that evidence and a finding to be made.

1550

Ms Haslam: I have two brief questions and both of them are regarding the stage of some of the changes that you brought in and where they are. One was the new computer system. I was very interested. You had a two-stage process and if I am not mistaken you are in the second stage. I just wanted an update on that particular issue. I will give you the other question at the same time. What is the result of the review? I believe there is a review by the LCBO regarding setting the price of beer in duty-free shops. You were reviewing this and I wondered at what stage that particular review was at.

Mr Tocher: In terms of the first question, stage 1 is complete and it involved the automation of the licensing and the compliance functions of the board; in other words, the inspection investigation area and the issuance of licences.

Stage 2 involves four other applications. We are developing a computerized hearing case management system. We are doing some automation in the advertising and promotions part of the board. We are going to be doing some automation in the area of SOPs and we are developing a small revenue recording and tracking system. Those four systems are roughly 50% complete and they should all be implemented by roughly the end of June of this year.

In terms of the second question, the LCBO is looking at the pricing of beer in duty-free stores to see what adjustments have to be made to address the auditor's concern. That matter is with them and they are still in the process of reviewing the implications of that.

Ms Haslam: Will they come back to the LLBO with their findings and the LLBO will then look to addressing that issue?

Mr Tocher: They have a couple of options, I guess. They can adjust the price to reflect the auditor's concern, or if they feel that the price is for some reason going to have some sort of adverse impact and they feel that perhaps the regulations should be changed, then they will have to come back and talk to us about amending the regulations and we will work with them on getting a recommendation to amend the regulations.

Mr McLean: The caterer endorsement has been mentioned. How many would there be in Ontario that would have a licence?

Ms Karakatsanis: I can tell you in just a minute. Seventy-four applications: I will just give you my—

Mr McLean: You said 74 applications, but in fact how many have been licensed?

Ms Karakatsanis: It would probably be 74 or very close to it.

Mr McLean: Are any of them in the county of Simcoe?

Ms Karakatsanis: I can find out for you.

Mr McLean: It would be interesting to know. If there are, it would save me some time getting a permit.

How much has been spent on a server training course that servers could take and has it been used at all?

Ms Karakatsanis: We have our own seminar, which we require all new applicants to take. It basically outlines for them what the laws are and we give them a booklet to take away with them outlining their major responsibilities and obligations.

The server intervention program is a course that was developed by the Addiction Research Foundation in consultation with the board. It is a program that is available. The industry associations have trainers who can also provide this training. It is approximately three to four hours long for servers and costs about $35, and four to six hours long for managers and costs $115 or in that vicinity. I could not tell you the numbers of people who have been trained. Do you know that number?

Mr Tocher: To date, I believe there are about 12,000 licensees who have been trained under the ARF's program.

Mr McLean: What amount of money would they get to do that?

Ms Karakatsanis: We have not given them any money for it.

Mr McLean: Oh, you have not.

Ms Karakatsanis: No. The fees that I mentioned are paid by the servers or by the managers to the Addiction Research Foundation. The work that they have done to date they paid for themselves. Presumably it came out of their budget; it did not come out of ours. With respect to implementing it in future, we are hoping to look at implementation that would be self-funding, but maintaining low prices for the actual servers.

Mr McLean: Special permits for sporting groups and volunteer groups: Where do you advertise or how do you make them aware of the process that they have to go through and the length of time that they have to apply before the function takes place? I have some of them who came to me. They have been on short notice and did not realize it took this long. How do you get out to the people what they have to do?

Ms Karakatsanis: Those pamphlets I was talking about would help. An application for a permit, for most social types of permits, has to be in at least 10 days before the event. In fact they are generally in less than that and we can usually process a permit for a weekend event if it is in by Tuesday. So it really does not take that long. For events that are of a nature such as a community festival or charitable events, I believe the deadline is 30 days, and again, we can process them in considerably less than that. We do not have a mechanism of letting the general public know, other than what is posted at the local LCBO store and the pamphlets that are available in all of those outlets.

Mr McLean: So there has been a change in the process of applying? It is shortened? I mean, in some cases you have to let the police know or you have get approval from the police, the municipal fire chief and all these people.

Ms Karakatsanis: You do have to let them know.

Mr McLean: You cannot do that in two or three days.

Ms Karakatsanis: No. The Tuesday to the Friday is where we have been satisfied that there has been notice to the police. If they have not been able to give notice to the police, then we would not be prepared to abridge the time and issue it in a shorter period of time. At least, that is the way it should work.

Mr McLean: I can go for another couple of minutes, Mr Chairman, if that is what you are waiting for.

The other question I had was with regard to hearings. You said two people or one person can attend a hearing. Who are the people who hold the hearings? They are not board members. Are they your staff?

Ms Karakatsanis: No, the hearings are conducted by board members. Usually it is two persons who hold a hearing.

Mr McLean: The appointed board members?

Ms Karakatsanis: The appointed board members conduct the hearings. It can be one member and we have done it in a few cases where something has been quite routine, but in most cases it will be two board members who conduct the hearing. We have had up to five board members conducting a hearing, where the hearing has been particularly significant or controversial in any way. But it is board members who conduct the hearing. There is board counsel who is staff who actually presents evidence, so the members themselves do not get involved. It is not an inquisitorial method, but it is members who conduct the hearings.

Mr McLean: I was kind of disappointed when I originally heard you say that you thought you should have half the members as lawyers, because I would have thought there were rules and regulations that you would go by, that those people who are on the board would be able to qualify to follow the rules and regulations to make a decision without having to be a lawyer. I just could not believe—

Ms Karakatsanis: It is true, that you do not have to be a lawyer to do it. It has turned out that it works easier for us if one of the members is a lawyer. If they are not a lawyer and if you are talking about just lay members, then you have to have extensive training for the members and that is not readily available. There is no central agency which provides that kind of training. Whatever training we do, we do out of our own budget, and you can imagine that when you have part-time members, it is very difficult to address that as well as we would like to.

Mr McLean: But would that member get the $125 a day, which is what a part-time board member gets?

Ms Karakatsanis: That is right. We have lawyers on our board who charge more than that for their hourly rate and yet they put in two to five days a month. There is a very strong element of public service involved.

Mr McLean: I was kind of surprised.

Mr Tocher: I want to correct a piece of information that I responded with. I mentioned there were 12,000 establishments trained under SIP; it should be 12,000 servers. There is a significant difference and I just wanted to correct that. I made a mistake. I am sorry.

Mr McGuinty: Can we go to 5 o'clock, Mr Chair, or only 4?

The Chair: It is up to the committee. I think we have enough questions here to continue for a while, in any event.

1600

Interjection: Are we going to be here in the morning?

The Chair: Not for this. It does not look like we are going to require the presence of our witnesses tomorrow.

Mr McGuinty: I wonder if I could touch on advertising. Could you tell me again please, what are the criteria governing your regulations or whatever? How do you approach advertising?

Ms Karakatsanis: The legislation itself is very broad. There are no criteria laid out in the actual legislation. The legislation requires that the board preapprove all advertising, period. The criteria are not set out by law. As I indicated earlier, it is the intention that those criteria be set out in the regulations and hopefully that will be the case soon.

Mr McGuinty: What are you using now, then?

Ms Karakatsanis: For years the board had advertising guidelines and directives, about 70 pages' worth of rules that had accumulated over—how many years? Forty? About 10 years, if not more. That was a collection of directives the board had put together to give the industry an indication of how it would be using its discretion to approve the advertising.

The advisory committee, as I said, recommended that the advertising rules be put into regulations; the advisory committee actually recommended a series of principles that should guide. Those principles were modified and were announced by the government at the time; 1 June 1989 they announced that the advertising principles should be the following. I can give them all to you if you like, but generally speaking they are that advertising must not promote consumption in general, advertising must not appeal directly or indirectly to youths, advertising must not depict illegal situations, consumption situations.

Mr McGuinty: Tell me something about so-called lifestyle advertising.

Ms Karakatsanis: The basis for dealing with lifestyle advertising is the principle that advertising must not promote the consumption of liquor in general. As an interpretation of that rule, the board has a guideline that says it will not approve advertising that suggests liquor is required for personal success or—I should give you the exact wording: "An advertisement must not imply that consumption of liquor promotes or is required for social acceptance or personal success, enjoyment of any activity or fulfilment of any goal or resolution of social, physical or personal problems."

The problem in this area is defining what kind of lifestyle it is you want to prohibit. I do not think anybody would object to a healthy type of lifestyle. You see ads that say, "Don't drink and drive." That is promoting a particular lifestyle. You see ads that may talk about being around Thanksgiving, a family dinner; again, that is promoting or suggesting a responsible, moderate approach to drinking. Defining the kind of lifestyle you want to prohibit is very difficult, and I would be very thankful to anybody who could give me a definition of what kind of lifestyle it is that should be prohibited. It is definitely an area in which there is general concern, however, that we are looking at.

Mr McGuinty: Are there any rules governing advertising on billboards with proximity to schools?

Ms Karakatsanis: There is one rule. It would be under the minors one. "Stationary outdoor advertising may not be placed within 200 metres of a primary or secondary school."

Mr McGuinty: In your opinion, is that sufficient distance? Is that accomplishing its objective?

Ms Karakatsanis: I think the general principle is that advertising should not appeal directly or indirectly to youths, the ads themselves should not be such that they would appeal to youths; if you do that, if the placards would not appeal to youth, then whether they are 200 metres or 500 metres should not really make a difference. I think it is important to focus on ensuring that advertising does not appeal to youth.

Mr McGuinty: Labels on bottles containing an alcoholic beverage: We have markings now on cigarette packages which warn of hazards of smoking. Would labels of an equivalent nature dealing with drinking fall within your jurisdiction?

Ms Karakatsanis: It would probably come under our legislation, but it is a matter primarily which the LCBO and the ministry and the government would be interested in. I do not think there are any real policy issues.

Mr McGuinty: It is just that if the LCBO is in the business of marketing, to use your term, and you are in the business of regulating, I think it would be a conflict for them to try to limit the amount they are selling.

Ms Karakatsanis: I do not want to do my sister board or cousin board a disservice. They are in the business of marketing within the context of social responsibility. There are many things they could do but do not do because they do not feel it would be socially responsible. That is qualified, and I should qualify it.

But they would be in a position to advise the government with respect to what implications, if any, it would have on the industry and on employment, whether it could be done easily in terms of actually carried out and put on the bottle, what the costs involved would be. We are not in a position to give very much advice on that issue.

Mr McGuinty: Your board has not given any consideration to that, then, I gather.

Ms Karakatsanis: No. We feel that there are other people more appropriate to look at that issue. I do not see that it would impact upon our board. I do not want to say we have not considered it at all, but it is just that there are other groups that can make a better contribution to that issue.

Mr McGuinty: There was a general statement you made at the outset and I have read it somewhere here, that your overall function is to promote the healthy use of alcohol, something to that effect.

Ms Karakatsanis: That is a statement we have adopted ourselves, a statement of purpose that we felt reflected our goal, which was "to regulate the service and consumption of beverage alcohol in the province of Ontario in a manner consistent with the promotion of moderation and responsibility."

There is a real balancing act involved in liquor regulation. On the one hand, you want to look at access of liquor for the responsible drinker. On the other hand, there is the social cost associated with alcohol abuse. There is the issue of businessmen and employees who make their living as opposed to neighbours who want quiet enjoyment of their property. There is this constant balancing act. I guess we felt that our mandate was to regulate in a way that would be consistent with moderation and responsibility, with the emphasis on regulation; just so we would not do anything inconsistent with moderation and responsibility, to keep that in mind as the direction we should be looking.

Mr McGuinty: Given that principle, and given also that it is my understanding that the social and economic costs involved with the abuse of alcohol are far greater than the abuse of substances banned under the Criminal Code, do you not think your board should be promoting labelling of alcoholic beverages which would indicate to a consumer that they are potentially addictive?

Ms Karakatsanis: We can say that labelling would not pose an administrative difficulty to our board. We can say that we have an opinion on the matter, but broad policy issues are really the function of the Legislature and the function of the government. We are there to administer the decisions made by the Legislature. I can give you my opinion, but it is just an opinion.

Mr McGuinty: I will take it.

1610

Ms Karakatsanis: It is really not my place to make those kinds of—as I feel that we are very independent when it comes to applying our legislation to the particular facts before us and I will not take any interference with the process, the flip side of the coin is that I also appreciate that, when it comes to policy, you folks are the ones who are elected to do that, not me.

Mr McGuinty: I appreciate that. However, given that you are on the front line of administration on this board, I really would appreciate, and I am sure the other members of the committee would, having your opinion with respect to that labelling. Your personal opinion; we understand that.

Ms Karakatsanis: I do not know how appropriate it is to give my personal opinion, because I am not here testifying in my own capacity. I am here testifying as the chairman of the Liquor Licence Board of Ontario. I know this whole area of labelling is something the minister is actively reviewing at this time, he is actively reviewing the issue of warning labels on bottles, and I just do not think it is appropriate that I give my personal opinion in this circumstance. I just do not see the relevance of my personal opinion.

Ms Haslam: I agree.

The Chair: I would like to pursue this for a second. When you mentioned that the advertising guidelines are being reviewed, I just wonder who is involved in that review. I know you said your board has input. Are the breweries, those who would be impacted by changes, being consulted? Are they involved in the process?

Ms Karakatsanis: Yes, they are being involved in the process. Public health groups are being involved in the process. All of the groups that have been identified as being impacted upon are being consulted, and that consultation process is still in place.

The Chair: Can you tell us, and you may not be able to and I understand that, if there is any consideration being given to a complete ban on advertising?

Ms Karakatsanis: As I say, the issue is currently under review by the minister and that review is not complete.

The Chair: I have one other quick comment which in a way ties in with this; Mr Bradley's question about underage drinking. I have not been able to find a statistic in here. I am not sure how this process works, but how many charges have been laid with respect to serving minors over the course of the past year?

Ms Karakatsanis: Charges by police? That I could not assist you with.

The Chair: How do you get involved in that? Simply, if there is a charge levied by a local police department and someone is found guilty of consuming alcohol products underage in a given premise, do you act upon a police charge and a court conviction? How do you do this?

Ms Karakatsanis: We act whether or not a charge has been laid. Police routinely file with us any reports of problems in licensed establishments, so we will follow up on that. We will follow up on complaints. Sometimes parents

complain or competitors complain. We will follow up on complaints or police reports or an inspector's report.

The Chair: If an inspector in one of your spot inspections goes into a pub and sees people in there whom he suspects to be underage, what does he do about it? Does he call a police officer? Does he confront these people? What happens?

Ms Karakatsanis: The report is submitted to the board. There is a review committee at the board that looks over these reports and will determine when follow-up investigation should be made. Then, if the committee views it and feels there would be enough evidence to take it to a hearing before the board, a proposal is issued. The proposal would be to suspend the licence for a period of time for service to a minor. To date, there were 40 such proceedings instituted, the year to date, which would be about nine months. Last fiscal year, 40 proposals were issued.

The Chair: I guess I am having trouble with the concept of an inspector making a spot inspection. I gather none of these were initiated as a result of an inspection by one of your people?

Ms Karakatsanis: Yes, a spot call would initiate this. I am just giving you the various sources. A spot call would form the basis for this and it frequently does.

The Chair: In the auditor's report he mentions one of the time-consuming responsibilities of inspectors: liquor disposal. I just wonder if you could elaborate on that.

Ms Karakatsanis: That is gone. The act used to say that liquor was forfeited to the liquor licence board. The act has now been amended to say that liquor is forfeited to the crown, so the police can do their own liquor disposal. The liquor licence board is no longer involved in that.

The Chair: This is pouring it down the toilet essentially?

Ms Karakatsanis: Sink.

The Chair: Okay, sink. Mr Waters.

Ms Haslam: May I make one quick comment? I am sorry, Mr Waters.

The Chair: Sure; go ahead.

Ms Haslam: It is along the lines of Mr McGuinty and as an additional question—the fact that you are reviewing the advertising. I find some of the advertising offensive, not just for the liquor but for the equity of feeling I have about the use of women in some of those ads, the fantasy ads where the women come out of the pool and that whole concept of being an integral part of the beer commercial, and that is what makes it a particular lifestyle or a particular pleasure. I just want to go on record as saying that when you look at advertising and the lifestyles, I feel that type of fantasy ad should also be under review.

Ms Karakatsanis: That issue is under review.

Ms Haslam: Thank you. I just wanted to get on the record as saying that there are many issues in those advertising things that should be looked at.

The Chair: You simply do not want men to have equal exposure.

Ms Haslam: I will just come right over there and—careful, careful.

Mr Grandmaître: I didn't say it.

Ms Haslam: I'll get him later.

Mr Waters: I just have a few quick ones. One has to do with the appointments. I believe you are now appointed to five years and then a further five. Is that how the system works?

Ms Karakatsanis: No, it has tended to be more three and three. I have another two years left on my appointment.

Mr Waters: How do you feel that system works? Basically, what I am getting at does not deal only with this. You are the second group we have had in, and being new at this I just want to get a feeling for the appointments system, how the people who are appointed feel about it.

Ms Karakatsanis: It takes a while to really learn your area. I was fortunate in that I was appointed as a part-time member of the board back in February 1986 at the time that all these changes were occurring and at the time when we really had a fresh start, so I was familiar with a lot of the issues before I was appointed full-time. That is an advantage many people do not have, so I would think that you would want to ensure that appointments were long enough so that people could actually learn their area and then you would get some value from what they have been able to learn.

I personally am comfortable with the system and with the length of time. In this particular case we have actually achieved quite a bit and I am rather proud of what we have done. If we can get it running smoothly and do some of these other things that we have in mind, then it will be a good time to be thinking of going on.

Mr Waters: You do not seem to find any difficulty then in getting people to go on the board?

Ms Karakatsanis: We do have difficulty getting people to come on the board because of the amount of time required. Asking somebody to put in a day a week when he or she is a busy professional is asking a lot. There are many good candidates I know were not in a position to accept an appointment because of the amount of time required, so that is a problem.

Mr Waters: I have just a couple of other things. When you talked about licensing and you go through the hearing procedure, at no time did I hear you mention—does anybody ever actually physically check out the establishment?

Ms Karakatsanis: In each and every case, before a new licence is issued, there is an inspection. The inspector makes a final inspection and physically visits the premises, as well as obtaining compliance letters on building, fire and health. Yes, a new licence is not issued without an inspection by the liquor inspector.

Mr Waters: My concern was in small communities.

Ms Karakatsanis: You never know what you are going to—you have to take a look.

Mr Waters: Yes, they could get a letter and it may not be anywhere near up to what the requirements are. The other thing I wanted to ask about is, is it a normal situation

for a representative of a manufacturer of alcohol to obtain permits for clubs and individuals for special occasions?

1620

Ms Karakatsanis: I understand that happens. Yes, it does happen. They do so as agents for the club or for the function. They are not doing so in their capacity as agents. They sign the application as agent for the club. It is a convenience that is done. I think when you look at a caterer's endorsement, that is the kind of convenience that will be offered under that instead of having the agent-manufacturer. It is not something that we like to see, but it does happen.

Mr Waters: My concern with it would be that I think under normal circumstances a person goes into the local LCBO and gets the permit and those people have an idea who the individual is. The other way, when it comes sometimes at third or fourth hand or arrangements are made over a phone, nobody actually even sees the person who is requiring it until the day he picks up his alcohol.

Ms Karakatsanis: You have to balance different interests. There is also the convenience factor as well. To make an applicant appear personally and sign on the spot in front of a liquor clerk would not in all cases be convenient and there would be a lot of groups that might have difficulty doing that. I guess in law it is pretty hard to stop somebody from signing as an authorized agent for somebody else. I guess it is something we really have not given much thought to. It is something we could look at, though.

Mr Waters: I would think you would want to have at least somebody sign who was going to attend the function.

Ms Karakatsanis: They are supposed to sign it. They do sign it, then the liquor agent takes it in for them to the store and gets it, but it is always signed by the applicant.

Mr Waters: I hate to differ—

Ms Karakatsanis: It should be.

Mr Waters: —because I obtained one of those at one time that I never signed.

Ms Karakatsanis: Do you want that off the record?

Mr Waters: No, I am just stating that these things—I was ignorant of the fact that I had to sign at the time, and there is the fact that these things do go on.

Ms Karakatsanis: The applicant is supposed to sign. That is perhaps something we can look into.

The Chair: One final questioner.

Ms Haslam: I understand that when you go for a new licence there is an opportunity for a public hearing. Is that opportunity there when there is a transfer of licence?

Ms Karakatsanis: No, there is not. The public interest is not a criterion that applies to transfer of a licence. However, it does apply to the continuation of a licence, so that if once it is transferred it becomes a problem establishment, then the board can review that licence to suspend it or revoke it, based on the public interest.

Ms Haslam: In a transfer of licence, is it going from an individual to an individual usually, then?

Ms Karakatsanis: It depends. It can go from an individual to a corporation or to a partnership.

Ms Haslam: But in that instance, then, there is no advertisement? For instance, if the ownership in a particular establishment has changed, people would not know about it because there was no public advertising that it was being changed to another type of person or another type of corporation.

Ms Karakatsanis: That is right. I guess the philosophy behind the approval of licences is that it is the board's responsibility to look to the past conduct of the applicant. The board has to be satisfied that they are not disqualified on those grounds that are particular to the applicant or the person. The public interest looks to the licence precisely for the reason that licences do change hands. That is why, if the public is objecting to a licence and the owner says to the board member, "Look at my prices. This is a fantastic menu and I close at 11 o'clock anyway," the board will in those circumstances attach a term and condition to the licence for 11 pm closing, recognizing that they can turn around and sell it tomorrow and the new owner might change it. So if there is a public concern raised at the hearing—

Ms Haslam: At the original hearing.

Ms Karakatsanis: —at the original hearing as to the nature of the licence, then restrictions are put on by way of conditions that stay with the licence even if there is a transfer. In your routine case where there have been no problems with an establishment and there is a transfer, then we would have to wait until a problem is brought to our attention and deal with the licensee. It is very difficult when there is a transfer to say, "I speculate that there might be these kinds of problems." It is much easier to deal with an actual problem that has arisen.

Ms Haslam: I am thinking of a particular instance where a business is sold because they are changing the outlook. They are now going into more a pub area or it is now going into a disco type of facility and that change would make a change in the community, would make a change in how it is perceived, yet without a particular knowledge that this is happening the public has no opportunity to come forward and say something about it.

Ms Karakatsanis: That is right, but that is why, if there have been any concerns raised initially, then the problems would be addressed by conditions to the licence. If no concerns were raised to the licence at all by the community at the beginning, then it will have to wait until a problem arises. I guess that if the residents are concerned about a restaurant, they tell us about it. Then if it looks like they do not care about this specific kind of operation, we will usually accommodate it with terms and conditions so that a change in business will not affect that part of it.

Ms Haslam: It is not the best, but—

Ms Karakatsanis: I do not want to be seen as being contemptuous of Mr McGuinty's question, so perhaps I could go so far as to say that the liquor licence board, that I have no objection to labels. I do not know if that assists you in any way.

Mr McGuinty: Very much.

The Chair: Ms Karakatsanis, Mr Toucher, we appreciate your appearance before the committee today. I alert you to the fact that we are going to be discussing your performance, if you will, with a number of client groups, so the possibility exists, a slim one, that we may, before deliberating on our final report, ask you to make a brief appearance once again. I would suggest that is a slim possibility, but I wanted to make you aware of it. Once again our thanks for appearing here today.

Ms Karakatsanis: Thank you. We would be happy to accommodate you in any way if there are any further issues that arise, any further information you require.

The Chair: We very much appreciate it. We will break off proceedings and see the members at 10 o'clock tomorrow morning.

The committee adjourned at 1627.

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Perruzza, Anthony (Downsview NDP) for Mr Wiseman

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Thursday 24 January 1991

Journal des débats (Hansard)

Le jeudi 24 janvier 1991

Standing committee on government agencies

Subcommittee report

Comité permanent des organismes gouvernementaux

Rapport de sous-comité

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 24 January 1991

The committee met at 1155 in committee room 1.

SUBCOMMITTEE REPORT

The Chair: The only item of business we have before us in this open session of the committee today is the report of the subcommittee. I am going to ask the clerk to read the report. As we indicated earlier, it is deemed to have been accepted. It is not something we are going to debate, but if anyone wishes to make comments or observations, we will certainly allow them.

Clerk of the Committee: "Your subcommittee met this day, pursuant to standing order 104(g), to consider the selection of intended appointees for committee review.

"Your subcommittee advises that, notwithstanding paragraphs 3 and 5 of standing order 104(g), it has selected the following for review:

"Selections of official opposition, Tuesday 29 January 1991 at 1 pm: Nick McCombie for up to 45 minutes; Andrew S. Brandt for up to 45 minutes; Madeline I. Hardy for up to 45 minutes; Bill Eckert for up to 45 minutes.

"Selections of third party, Wednesday 30 January at 11 am: Maitland R. Warder for up to one and a half hours; Greta A. McGillivray for up to one and a half hours.

"Selection of government party: Andrew S. Brandt, previously selected and scheduled."

The Chair: That is the report of your subcommittee. Any questions or comments?

Mr McLean: I move the adoption of the report. Is that in order?

The Chair: No. Is it necessary, Doug?

Clerk of the Committee: No.

The Chair: Any further discussion before we adjourn for the week?

Mr Bradley: Just as a comment, I will not be here for that session, but to keep in mind what Tony had to say, there is a good example. We have people coming in to be interviewed, some of whom will be much more used to dealing with a committee and perhaps able to sustain questions of a certain kind than others. In other words, Andy Brandt, if he comes before the committee, has been before committees. He is going to be expert, he is going to be good and he will handle himself well.

It simply points out what Tony had to say about how it is more difficult for people who have not appeared before a committee and are coming in to be, for want of a better word, interrogated. I will have to remind myself of that when I am around here when they are coming in, because next week sets out an example. Some people I think are former directors of education. They all have a great line, those people, otherwise they would not be directors. Then you have got people who are regular people, as Marilyn always said she was a regular person, not a banker or something like that.

The Chair: One final thing: Doug can review the schedule so everyone knows what hours we are operating on next week.

Clerk of the Committee: The committee would not be meeting Monday afternoon, would not be meeting Tuesday morning, and will meet Thursday afternoon only if business is scheduled between now and then.

The Chair: Our first session will begin on Tuesday at 1 o'clock.

Ms Churley: I just wanted to say it has been a pleasure subbing here today and I wish you good luck in your interviews.

The Chair: Thank you very much. Come back any time.

The committee adjourned at 11:58.

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Standing committee on government agencies

Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 29 January 1991

The committee met at 1308 in committee room 1.

APPOINTMENTS REVIEW

Consideration of intended appointments.

NICK McCOMBIE

The Chair: Could we come to order? Mr McCombie, would you like to come forward, please? Mr McCombie is the intended appointee as vice-chair of the Workers' Compensation Appeals Tribunal. Welcome to the standing committee on government agencies.

Mr McCombie: Thank you.

The Chair: This is a new process for us as a committee and for the Ontario Legislature and we certainly want to make you feel at ease. You have the distinct honour of being the first recommended appointee to appear before the committee. Would you like to make a few brief comments before we open it to questions from members of the committee? Do you have anything to say?

Mr McCombie: I do not really have any opening comments other than perhaps to point out that with me is Ron Ellis, chairman of the Workers' Compensation Appeals Tribunal, and he has come along with me to see the process.

The Chair: All right, fine. Members have received a résumé for Mr McCombie indicating his experiences and background. As we agreed last week, we will start the questioning. We will at least provide the first opportunity for questioning to the official opposition.

Mrs Marland: I wonder if I could just help, but not in the form of a question. Mr McCombie, as the Chairman has said, we are all flying here today with this initial session of something we have not done before. As I sit and look in the committee, we have two veterans in the Chairman and Mr Grandmaître, I have only been here six years and everybody else has been here three or four months, so it is difficult for us to start off, probably all feeling that it is not a format we are familiar with. I am being quite honest, speaking for myself. I think it would be nice to hear from you, and from all the intended appointees, not in answer to direct questions but in generalities, why you were interested in serving and how you went about volunteering your services and your contribution to the board, but I do not want to count that as one of my questions.

Ms Haslam: It counts.

The Chair: There was a void and Mrs Marland volunteered to fill it. I do not think we will be too restrictive at this stage in terms of timing. Leave it to me to be as fair as I possibly can be.

Mr Silipo: You will just take that time away from the Conservative Party.

Mrs Marland: I will withdraw.

The Chair: Would you like to respond to that?

Mr McCombie: I would be happy to respond to that. I will leave it to the committee to determine whose question it is. I certainly would have prepared an opening statement. I was not asked to, and I guess as all of you, did not know what to expect. It is my first time here too, obviously.

Very briefly, I think you have the material that was provided, primarily the letter from Mr Ellis to the minister recommending my appointment, and there is a brief résumé attached. I would be more than happy to go over that but, to summarize that, I have been involved in the area of workers' compensation since 1978, when I started working at a community legal clinic in Toronto called Injured Workers' Consultants. As it turned out, right around that time or shortly thereafter there were some major changes in the workers' compensation system which resulted from the appointment of Paul Weiler to do a study of the system and a number of initiatives that happened around that time, a white paper on workers' compensation, Professor Weiler's report and ultimately a bill to propose some major changes to the compensation system. One of those changes was the institution of the Workers' Compensation Appeals Tribunal, which came into existence on 1 October 1985 under the chairmanship of Mr Ellis.

I was appointed to the appeals tribunal at that time, in 1985, as a member representative of workers and have been serving in that capacity ever since. I would like to think that in the time I have been there, I certainly have gained an appreciation of the adjudication side of the workers' compensation system and have been involved both internally in the administrative running of the tribunal through various committees and so forth. Also I like to think that I have been very actively involved in the adjudication process, including helping out with the drafting of decisions, writing dissents, doing research and so forth. I guess at this point I feel that I have had an awful lot of hearings now and feel confident that I could fulfil the role of the vice-chair at the appeals tribunal.

That is a very brief summary of the background. I do not know how much you want me to go into it, but maybe I can answer questions from there.

Mr Grandmaître: You have been appointed as vice-chair?

Mr McCombie: I have not received notification that I have been appointed. I have received an indication that cabinet has approved the appointment, but I have not received an order in council indicating that I am a vice-chair. I am not acting as a vice-chair at this point.

Mr Grandmaître: At this point?

Mr McCombie: No, I am sort of in limbo at this point.

Mr Grandmaître: Exactly. That was my question, because reading from my agenda, it says "the intended appointee as vice-chair." My sources tell me that you have been appointed by an OIC. Are you still a contender or have you been appointed? If you tell me that—

Interjection.

Mr Grandmaître: You have not told me that you have received a copy of the OIC.

Mr McCombie: I can tell you that when I was appointed as a member representative of workers, I received an actual copy of the order in council that was signed by the minister and the Lieutenant Governor. I have not received such a copy with respect to the position of vice-chair.

Mr Grandmaître: Since that time you have not heard from the Premier's office or from the ministry as to when your new responsibilities were to begin?

Mr McCombie: No, I have not.

Mr Grandmaître: You have not?

Mr McCombie: I have not, no. Certainly there are people in the chairman's office at our organization who have been trying to determine what the situation is. We were told that there was this committee process, and basically everything is on hold until this committee process has been exhausted, as far as my duties go. I am not scheduled to sit on any hearings, for example, as a vice-chair and I am not fulfilling any duties of a vice-chair.

Mr Grandmaître: I find it a little strange that we would ask this gentleman to appear before this committee, and yet he feels like I feel, very unsure about his future. I know that you will remain with the commission, but as to your new responsibilities as a permanent vice-chair, I find it a little strange that the people responsible for these appointments have not advised Mr McCombie of his new responsibilities and when he should start. The OIC was dated when?

Mr Silipo: On a point of order, Mr Chair: I was resisting very much getting into this, but it seems that at every stage of the process we are getting into a debate about the process.

I am sure Mr Grandmaître understands the process quite well and that the process is such that the appointment of Mr McCombie at this point is an intended appointment on behalf of the government and the cabinet and it is subject to the review process that we are now undergoing and subject to whatever recommendations will come out of that.

I think the issue of notifying Mr McCombie about his appointment etc really is beyond the realm of the kinds of things we ought to get into. If he wants to sort of reserve that for a point of debate, I think we can do that later on.

The Chair: Mr Silipo, I respect your view. I do not see that as a point of order. I see it as Mr Grandmaître wishing to utilize his party's time to make comments like that and place them on the record; so be it.

Mr Grandmaître: With all due respect, I would like to advise my friends on the other side that I am not trying to create problems. I am trying to really understand the system. You just pointed out that this gentleman, who is not being tortured but who has to face this committee, is an intended appointee. You just said it yourself. I am asking, has he been appointed or is he still a contender for this job? That is my question. Can you answer that?

Mr Silipo: I can answer it if you want me to answer it to the best of my knowledge.

The Chair: The intent of this hearing is to give Mr McCombie and the committee an opportunity to discuss his appointment, then subsequent to that to make a decision on the appropriateness of that appointment and to make a recommendation to the Legislature. I guess I would urge all members to try to keep that in mind and not get into this kind of debate if at all possible. We are going to have an opportunity to do that at a later time.

Mr Grandmaître: Mr McCombie, in looking at your curriculum vitae and at your past responsibilities with the compensation board, I want to wish you well.

1320

Mr McGuinty: Mr McCombie, I see that you have served with the Workers' Compensation Appeals Tribunal since 1985 as a representative of workers. It is my understanding that the members represent workers or employers. Is that how it works, essentially?

Mr McCombie: It is a tripartite adjudication model with panels of three that hear cases: one member representative of workers, one member representative of employers and a neutral vice-chair.

Mr McGuinty: Prior to holding your position with the tribunal, I understand that you worked with the Injured Workers' Consultants legal clinic.

Mr McCombie: That is correct.

Mr McGuinty: For some seven years?

Mr McCombie: That is correct.

Mr McGuinty: The background you are bringing to this is that of a representative of workers' interests?

Mr McCombie: Yes.

Mr McGuinty: I am sure you know what I am getting at. The vice-chair, as I understand it, has an obligation, as you pointed out—you did not point out, but it is here in my briefing material—to mediate between the other two parties, I gather. How do you feel you will be able to deal with that, given your background?

Mr McCombie: I do not know if I would altogether agree that the role of a vice-chair is to mediate between the two, the employer member and the worker member. I think it is important for the committee to understand that the Workers' Compensation Appeals Tribunal was set up as an adjudicative body that would have experience from both the worker community and the employer community, but it was made very clear right from the beginning that the goal was to have a unanimous decision.

This was not to be a unanimous decision by pushing something through, but by the three members of the panel sitting together and deciding, after hearing all the evidence and weighing it all, weighing the submissions, what the

right answer was. In most of the cases we hear, there is in fact a unanimous decision.

It is not a question of the vice-chair strong-arming one side or the other to go along; it is a question of the three panel members sitting down—and I speak from the experience of sitting on some 700 hearings—and deciding what is right in the particular case in front of that panel based on, and it is in our legislation, the real merits and justice of the case. I am happy to report that I think this process works quite well. It is not quite as adversarial as it might appear or as some other tripartite agencies are.

Mr McGuinty: Given your 12 years' experience, I guess it is, working as a representative of workers' interests, do you feel that will pose any difficulty in terms of your bringing an objective approach to the new position?

Mr McCombie: No, I do not think it holds a difficulty. I think that, representing workers' interests, it has not been my view all along to uphold workers' interests right or wrong. I have certainly gone along with any number of decisions that have gone against the worker. I think I am still upholding workers' interests in doing that because I think the intent of the legislation is to provide compensation to workers who meet various guidelines. I think it is important to do that, and I think it is important to do that whether you are vice-chair or a member representative of workers or a member representative of employers.

Mr McGuinty: I have some examples here of some parts of articles that you have written in the past. One is an article I guess you co-authored with Andrew King in 1981, "Workers' Comp: Legal Right or Social Welfare?" At one point you referred to the legislation as drafted by Meredith as "actually a piece of enlightened and farsighted self-interest on the part of the ruling class."

I guess the fair question would be, since joining the tribunal of 1985, have you participated or lobbied in any way to bring about changes to the legislation?

Mr McCombie: Since joining the tribunal, no, I have not.

Mr McGuinty: Do you have any intention of doing so?

Mr McCombie: Not lobbying, no. I think some decisions of the tribunal have pointed out inherent problems in the legislation, contradictions within the legislation; but other than that, no, I certainly have no intention of lobbying either directly or indirectly for changes in the legislation other than pointing out those contradictions in the decision-making process.

Mr McGuinty: One final question: What do you feel your obligations will be in your new role? What is your obligation on the job?

Mr McCombie: I think my obligation on the job in the role of vice-chair is to run as fair a hearing as possible, to ensure that all the evidence relating to the particular case is brought out and the submissions on that evidence, and to go away with my two panel colleagues and discuss it as fully as possible and arrive at as fair a decision as possible and then issue decisions which will hopefully explain in as clear as possible terms what that decision is and why we have arrived at it. I see that as my role.

Mr McGuinty: Thank you.

The Chair: Thank you. You still have approximately three or four minutes, by my rough timing of this, if you wish to follow up later on. I have deducted four minutes from Mrs Marland's question earlier at the request of the other side, but I am sure they will be flexible if need be. Mrs Marland, do you have further questions?

Mrs Marland: Yes, I have further questions. That is the last time I try to help out the committee. The deadly silence was so uncomfortable. I was just trying to be accommodating but I will just—

Mr Hayes: Time rolls on, Margaret.

Mrs Marland: That is right.

Mr McCombie, if I am in receipt of the same résumé as everyone else—I have only a single page and it is only for the last 12 years—it is a rather limited résumé. I am interested to know what you did prior to 1978 and your educational background. I am not going to ask your age, because that would be against the Charter of Rights and Freedoms, but using my eyesight, I think you were working before 1978, so I am interested to know what else you have done.

Mr McCombie: Prior to 1978 or prior to just starting at Injured Workers' Consultants I was a truck driver for a company called Medigas, which delivers medical gases, and prior to that I had worked at a number of basically labouring jobs.

Mrs Marland: So when you were a community legal worker, that was something you learned as you did it?

Mr McCombie: That is right.

Mrs Marland: So you do not have any education in law in the formal sense?

Mr McCombie: Not in a formal sense, no.

Mrs Marland: But in the experience sense, which is often—

Mr B. Murdoch: Probably better.

Mrs Marland: —probably better. Exactly. With apologies to Mr McGuinty.

Mr McCombie: Although I might point out that I did teach at the bar admission course and I have co-authored a legal text on workers' compensation.

Mrs Marland: Okay. I recognize that your perspective with the WCB work and in your contract work has all been, as was pointed out by the previous questions, from the labour side, and I notice you have done a lot of contract work with unions. I think everybody in this room would agree that workers' compensation does not work in this province. It does not work for the workers and it does not work for the employers, and there are major, major problems involved with that whole area. What can you comment, based on your experience in working with the system, on where some corrections could be made or some solutions could be found to make the system of workers' compensation work better for both parties?

1330

Mr McCombie: I do not really know that I can answer that question. While it might be open to dispute what my status is, I am still at least an adjudicator at the appeals tribunal and as such, as I have just responded, I do not feel it is my responsibility or I do not feel I am able to suggest what changes should be made or reforms should be brought to workers' compensation, given that I am charged with adjudicating the law as this committee and your colleagues pass it. I am not trying to duck the question, but I think it is very important that I keep those two roles separate.

As I indicated earlier, where there are particular contradictions in the act, I think it is important for a hearing panel to indicate that in its decision, and hopefully that will come to the attention of the legislators and changes will be made. But as far as saying what specific changes should be made to workers' compensation, I do not really feel in a position to comment on that.

Having said that, I can say that I think that the system itself is a good system. Mr McGuinty quoted an article I co-authored quite some time ago, and I think it is important to recognize that it is a very old system and it has worked extremely well, for all its faults, in providing compensation to a vast number of people. Obviously there are problems, and some of those problems appear in front of us in hearings and some of them appear in front of you in your constituency offices and in the Legislature, but—

Mrs Marland: I am surprised to hear you say that. I sat on two committees in the last session, one that dealt with Bill 208 and one that dealt with Bill 162, and I am surprised that anyone with your background would say that, for all its problems, it has really worked well. The Ontario Federation of Labour and OPSEU and all the different groups that came before us gave us so much concrete evidence, as did the employers and the management, about why that system is not working and does not work. I do not want to debate it with you because you have given me your answer, but I am surprised from the perspective whence you come that this is your opinion.

I respect the fact that you say you do not want to make any comments because of your new position but if it is not the people who are involved directly with the system the way you are who tell us why the system has the problems it has, I do not know how we are ever going to remedy it, particularly for injured workers in this province, because we are never going to be a position where we know how to get at what the problems and the shortcomings are.

On another subject, I want to ask you about an article you wrote about Nicaragua's future. Obviously when we have appointments made by governments to government agencies, boards and commissions, which is what we are talking about here, I think political affiliations and associations are very important. Would you like to comment on this article you wrote called "Election Reflections"? Do you have some feeling towards Ortega's history in Nicaragua and the Sandinistas' actions?

Mr McCombie: I do have feelings about it and I wrote about them. I believe that article you are referring to was in Our Times in the last few months.

Mrs Marland: Yes, it was October 1990.

Mr McCombie: I am not trying to duck anything but I am not exactly clear on what that has to do with how I am going to fulfil a role as vice-chair at the Workers' Compensation Appeals Tribunal.

Mrs Marland: I am asking the question because I would like to know a little bit more about your political affiliations and where you are coming from philosophically.

Mr McCombie: I was in Nicaragua in 1983, as certainly a lot of Canadians have been, a lot of Ontarians have been, members of the Legislature have been. I was impressed by the work that was being done there and I have kept in touch with developments there ever since. I have been a supporter of the Nicaraguan experience ever since.

Mrs Marland: Are you a supporter of a political party in Ontario?

Mr McCombie: Am I a supporter? I vote. I am not a member of a political party.

Mrs Marland: Do you support a political party in Ontario financially?

Mr McCombie: I have made contributions in the past.

Mrs Marland: I realize you are not vice-chairman of the tribunal today, but if you had that position and that tribunal was before this committee, because I have served as a member of this committee when in fact we did review the WCB—I cannot remember what year it was; I have a feeling it was 1986—would you be willing to answer very direct questions, which they would be to a vice-chairman, in terms of what the problems are, or if you do not want to acknowledge that there are problems, where improvements can be made to that organization?

Mr McCombie: First of all, I think it is important to distinguish between the Workers' Compensation Board and the problems that are directed at it and the Workers' Compensation Appeals Tribunal. Some of the problems at the board, as I understand it, are administrative problems that frankly we have no knowledge of and can do nothing about.

We would encounter problems with the legislation and having problems interpreting it and having people saying, "It doesn't mean what you say it means." We can bring that to your attention either through decisions, through the chairman's annual report or in any number of other ways.

As for appearing before the committee, I seem to remember I was on the delegation that appeared before you a few years ago and questions were asked and answered and some of them were direct answers and some of them were answers that said, "We can't deal with that, because they are issues in front of us." I would assume that I would answer the same way were I to come again. I was on that delegation as a member of the executive committee.

The Chair: Mrs Marland, if I can interject, your time is almost up and your colleague also has indicated he would like to ask a question.

Mrs Marland: Certainly.

Mr B. Murdoch: Most of us know that the Workers' Compensation Board is in a real mess and that the tribunal process has not been working that well either. All I want from you is a commitment that you are going to work to straighten this out as best you can as the chair.

Mr McCombie: I do not know if Mr Ellis would appreciate my being made chair, but as a vice-chair I would certainly do what I could.

Mr B. Murdoch: In the chair, that is what I meant.

Mr McCombie: In the chair, yes. I would certainly do what I could too. I think the major problem that the tribunal has had, certainly historically, was its startup time, delays in getting decisions out. Certainly that is something I have been concerned about as a worker member and I would be equally concerned about as a vice-chair and hopefully in a bit of a better position to do something about it.

Mr B. Murdoch: I would hope so too, because it is one of the biggest problems I have had in my riding and we need somebody there to straighten it out. With your background we will see, but I hope you can certainly do something.

Mr McCombie: I will do my best.

Mr B. Murdoch: That is really all I wanted to say.

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Mr Silipo: Mr McCombie, I think Mr McGuinty asked earlier about some of the potential concerns with your moving from your present position as a member of the tribunal in a capacity representing workers to the neutral position of vice-chair. Could you talk a little bit more about some of the kinds of things that you think you will or might have to do, both within the tribunal—that is, with your colleagues on the tribunal—and possibly out beyond that, to ensure that in fact the neutrality aspect that seems to be associated with the position of vice-chair is something that people would see as something that would become part of your work and style.

Mr McCombie: I am not sure I totally understand the question.

Mr Silipo: I guess I want to hear a little bit more from you about whether you think there is anything you will need to do, as you move from your present position to the position of vice-chair, to deal with any of the perspectives that might exist, either within other members of the tribunal or, quite frankly, out in the general public among workers and among employers.

Mr McCombie: Yes. It all sounds a little clichéd, but I think what I have to do is to run fair hearings and to write decisions that whoever wins or loses, everyone understands the reasoning of the panel. I want to make it clear that while in most instances vice-chairs write the decision, it is a decision of three people, a panel. I think the role primarily of the vice-chair is to make sure that both parties, the worker and the employer, understand why the decision was made the way it was. So I think I certainly would have a responsibility, even more than the average vice-chair, to make sure that the decisions I am involved in are as clear as possible and evenhanded and fair, applying the law as we have it.

Mr Silipo: You talked earlier a little bit about some of your experiences even in your present capacity in terms of that. You used the example that while you have been on the panel, obviously as a worker representative, there have been instances where you have not necessarily agreed with the position that the worker was advocating. Again, perhaps you could elaborate a little bit more on that aspect in terms of drawing on any examples or experiences like that that you might be prepared to share with the committee, obviously without getting into the details, but generally along those lines that might instil among the members of this committee or the public in general the sense of neutrality that is expected of you as vice-chair.

Mr McCombie: I guess the best way of answering that is to say, I was asked earlier about my formal legal training. I certainly have had a lot of informal legal training and there are a lot of lawyers at the appeals tribunal. In some ways I think I have probably been subverted in the sense of the idea that we apply the legislation and, if we do not like the legislation, there is not a whole lot we can do about it in that position.

Therefore, if the legislation says, in my reading of it, the worker loses, even though I think the worker should win, I have to go with what the legislation is, because I have made that commitment to apply the law as it is passed by the Legislature. If I do not like that, I have to live with it. That is one of the things I gave up when I stopped being an advocate, lobbying to get those laws changed.

Ms Haslam: To tell you the truth, I was quite impressed because of something I read from this letter of recommendation. I understand this letter of recommendation comes from Mr Ellis, who is the chairperson of the tribunal. It says that this recommendation was made originally to your predecessor, meaning the previous government, and was pending at the time of the election. Had you applied before or had they approached you to take this position?

Mr McCombie: I had indicated to Mr Ellis quite some time ago that I would be interested in the position of a vice-chair. It was my understanding that Mr Ellis indicated that to the previous government and that process was interrupted by the election and the results of the election and then a number of other things, the formation of this committee and so forth. So it has been in the works for a while.

Ms Haslam: The only thing I would also like to say is that this was a five- or six-page recommendation by the chairperson of this tribunal. To my way of thinking, that is an admirable type of recommendation to receive from a chairperson of a committee. He certainly seems to feel that you can bring a neutrality to this position and that your

experience certainly will be beneficial in this capacity, and I would just like to put that on record. Thank you.

Mr McGuinty: I understand, Mr Chair, I have three or four more minutes left. Mr McCombie, have you ever been a member of a political party?

Mr McCombie: No, I have not.

Mr McGuinty: Have you ever made a financial contribution to a political party?

Mr McCombie: Yes, I have.

Mr McGuinty: Which one?

Mr McCombie: I made a financial contribution to a goodbye party for Richard Johnston. I gather that this ended up going to the Scarborough West NDP.

Mr McGuinty: That is the only financial contribution you have ever made?

Mr McCombie: That is correct.

Mr McGuinty: Have you ever worked on or provided assistance of any kind for a political campaign?

Mr McCombie: I am not trying to duck any questions, but I wonder—and I raise this for the committee's deliberations—whether this is the kind of questioning that is appropriate for whether or not I am qualified to sit as a vice-chair.

Ms Haslam: It has been raised before.

Mr McCombie: Okay. I am happy to answer your questions. I am not trying to duck anything. I do not think I have anything to hide. Anyway, as far as working, I did one day's canvassing for one former member of the Legislature. That was an NDP member.

Mr McGuinty: That was this last election?

Mr McCombie: No, that was in 1985, I guess.

Mr McGuinty: Have you had any contact of any kind with the newly elected government since its election?

Mr McCombie: No.

Mr McGuinty: Any official of the newly elected government?

Mr McCombie: No. I should say—no, that is not true. I did see Frances Lankin, who is a former member of the appeal tribunal, at a goodbye party for one of our colleagues. She was invited. This was a few days after the election. I did see her at that. It was not in her capacity as a member of the new government or a cabinet minister—at that time she was not a cabinet minister—but as a former colleague.

Mrs Marland: Mr Chairman, is there any time left for the Liberals?

The Chair: No, there is no time left, really. In fact, we are behind schedule because we had a late start.

Mrs Marland: I was going to ask the Liberals to give me my question time back from when I opened the meeting.

The Chair: The time is up. Mr McCombie, we thank you for appearing before the committee. We will be deliberating in respect to your particular appointment later this week. You will be informed following that.

Mr McCombie: Thank you.

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ANDREW S. BRANDT

The Chair: The next witness to appear before us is Andrew S. Brandt, who is the intended appointee as chair of the Liquor Control Board of Ontario.

Welcome, Mr Brandt—I should say, "Welcome back," I suppose—to Queen's Park.

Mr Brandt: Mr Chairman, thank you very much. I am delighted to be back, members of the committee, and to see a number of familiar faces. It is nice to see all of you again. I welcome the opportunity to appear before your committee, sir.

The Chair: Thank you. I do not know if you would like to make a few brief remarks, or would you simply like to open it up to questions at this point?

Mr Brandt: Perhaps other than to say that it is a new process for the committee, I understand, as well as for myself, I am at the will of the committee with respect to whatever areas of interest it wants to pursue in terms of questioning. I look forward to the process, and perhaps we might even get into some comments on how we might refine the process collectively, because there are some questions I have as well, if there is time remaining for those. I am at the will of the committee, Mr Chairman.

The Chair: We will begin the questioning with Mr Grandmaître.

Mr Grandmaître: First of all, Mr Brandt, I am glad to see you back. Now that you have been appointed to the LCBO as chair, what will be your first responsibility, or what do you intend to do the first week on the job?

Mr Brandt: The first week might be a little difficult to determine in terms of what one might establish as an objective or a target, but certainly in the early weeks of the responsibility it would be my intention to get a handle on some of the problems, some of which I am aware of now and others which I would hope to learn more about after exposure to the board and some of the administrative staff.

There are some serious problems with the LCBO that I think have to be addressed. Among those is the fact that in a time when the economy is relatively soft, there are problems with respect to the sales and the profitability of the LCBO, which translates into fewer dollars being turned over to the government of the day. For the edification of the members of this committee, the LCBO turns over a little more than $600 million a year to the government of Ontario and those profits are used for many social programs and initiatives on the part of the government.

At the same time, I would like to say that I want to get a better handle during that initial period on some of the social responsibilities of the board as they relate to items like drinking and driving and the whole question of alcohol addiction. It would be my intention in fact, depending on the outcome of this hearing before this committee, to set up meetings rather quickly with some of the interest groups on the social side of the ledger, because there are some serious concerns with respect to those particular areas of activity that involve the board as well.

I would like to take a look at some initiatives in connection with environmental matters. I think that much can be done, for example, in the area of recycling that has not been done yet to any great extent by the board. I am speaking specifically of glass containers as opposed to some of the metal ones.

There is a whole host of things that I believe have got to be addressed early on, but I would try to learn more about the job in the first week, if I can focus on that seven-day period you have given me to comment on, and then go from there.

Mr Grandmaître: Mr Chairman, I did not want to give Mr Brandt a break. I wanted him to start on the job like yesterday, because I know his background indicates not only to this committee but to the province of Ontario, I think, that Mr Brandt will do a great job and I want to wish him well. The only thing I do not believe in his résumé is that he was born in 1938.

Mr Brandt: I know I appear much younger. That is very misleading.

Mr McGuinty: It was late 1938.

Mr Grandmaître: I want to wish you well, Mr Brandt.

Mr McGuinty: Mr Brandt, I am not going to ask you about your political history; that is a matter of public record.

Mr Brandt: Oh, go ahead.

Mr McGuinty: I am just curious. Did you express an interest in the position? Were you approached? I am just wondering how that process took place.

Mr Brandt: I had an informal conversation with the Premier following his election, and I indicated to him that I had left public life not because I was particularly disinterested in serving in some further capacity and that, as a result of my having served as an interim leader of a political party, I felt it was probably not in the best interests of my party to continue to serve publicly in that fashion. I was still interested in serving the province of Ontario in some other capacity, and we began discussions at that time as to what that might be.

It was some time after this that the question of the LCBO came up. We focused on that particular appointment in some subsequent conversation, but it was after the election that this occurred.

The Chair: Mr Murdoch, I am giving you a first crack.

Mr B. Murdoch: I have not really got too much to say, other than to welcome you back. I know you will do a good job also. I do not have any questions that I really want to ask.

Mrs Marland: I have some questions. For the record, so that I will not be accused of any bias, I do not need to ask you if you belong to a political party, which is the question I did ask the person before you. But have you contributed to a political party in Ontario?

Mr Brandt: Yes, I have, far more than I could afford at times.

Mrs Marland: With your life and with blood, I suppose, as well as otherwise. Anyway, I just wanted to put that on the record. And since we are on Hansard, it is the Progressive Conservative Party?

Mr Brandt: Yes, that is correct.

Mrs Marland: Recognizing that the LCBO is a business—and as you have mentioned, making a profit of $600 million, which I did not know, for the people of Ontario—it is very interesting in reading your résumé, going back to when you were obviously quite young, that you were already a businessman yourself in a very serious way. You obviously were very successful with your Academy of Music Studios. In reading through, I am very interested to see how that business progressed. Particularly it is interesting, as a comparison to the LCBO, that you were importing musical instruments. You talk here in the résumé about being well acquainted with the importation of goods into Canada and all that entailed. That obviously is part of the business of the LCBO as well, so that is another strength in your background.

First of all, how many employees approximately does the LCBO have?

Mr Brandt: The LCBO at the moment has 5,800 employees, full-time, part-time and temporary.

Mrs Marland: I am comparing it to when you were Minister of the Environment. You mention here the budget then—and of course that is the budget almost eight years ago now—and the number of employees. What is it you are looking forward to most about the challenge in this new job?

Mr Brandt: I really think there is a sensitive balance that has to be achieved in the LCBO. On one side is the need for revenues, which are relatively static at the moment, in the range of $2 billion a year, the profits that obviously are of interest to every government because they are of importance in terms of funding the necessary programs. Then on the other side of the ledger, the question that I responded to from Mr Grandmaître, is the whole area of concern about drinking and driving, the abuse of alcohol with respect to some members of our society, that has to be very carefully monitored as well.

Over the years, I think the LCBO has done a very responsible job of finding that sensitive balance, but we have a whole host of new issues coming up now that are attacking the profit side without really enhancing or improving on the social agenda of the LCBO in any way. I am speaking now of free trade, the GATT negotiations, the spillage, if I can use that term, that is occurring in border communities that Mr Hayes may be aware of in the Windsor area. A tremendous amount of retail sales is slipping across the US border and border communities which amounts to literally multimillions of dollars a year.

I do not have a quick answer to how that might be stopped, other than I can give you one of the theories that I want to pursue in that first seven-day period we talked about earlier, and that is the issue of whether or not the government of Ontario could co-operate with the federal government to perhaps collect some of those taxes at the border. Right now, if you come across the border, there is a

federal tax collected and that goes into the coffers of the federal government, but you are on an honour system with respect to the 8% provincial tax, not only on liquor products and beer products. In my area, as an example, if you bring across anything under a 12-pack of beer, they simply wave you through and they charge absolutely nothing on it whatsoever. With the price of beer over the border being approximately half the price that it is in Ontario, because of our higher taxes and the more sophisticated social programs that we have in Ontario—I think we all agree that there is a price to be paid for that—we are not collecting any of the revenues that I think quite properly should be going to the province of Ontario.

I would like to pursue some of those things, Mrs Marland. I think they are extremely important to the overall health of this province. I think there are some lost revenues that perhaps could be redirected to their rightful place, which is the general revenue of the province of Ontario.

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Mrs Marland: That sounds very significant, and obviously it is a challenge that you would really enjoy from the business perspective.

I have one final question. I know at some time when you were a lowly backbencher, you probably had the privilege of sitting on the government agencies, boards and commissions committee, which I have had some years with on and off. You know there are certain appointments to certain ABCs, as we refer to them colloquially, that are much more directly involved with government than others. The other areas where sometimes those ABCs become difficult for people who hold the appointments are those areas that come into discussion in question period in the House. How would you see those, based on your 10 years' experience in the Legislature? As an example, in my only six years, I can never remember a question in the House about the LCBO. Do you see any concern personally, as chairman, in terms of anything to do with the political reality of the political arena, your background and the current government? I think that is a question that should be out on the table.

Mr Brandt: It is an excellent question and one that obviously I have given a great deal of thought to, and I am sure the Premier and the minister, whom I will be reporting to, have given thought to it as well.

The LCBO is a business which is run on the basis of generating certain revenues and the expectation of certain profits. In addition to the administration or the management of a business, it carries with it a social responsibility. The policies as they relate to things like that social responsibility, by and large, are created by the government, and it is the responsibility of the chairman to carry out those policies.

There are certain initiatives that the chairman might be able to take in concert with his or her board in terms of recommendations back the other way to the government. I am speaking now perhaps to a recycling initiative that we may wish the government to be aware of or something along those lines, but I cannot see a conflict in terms of policy with the LCBO, primarily because I would expect that the government would place with me the responsibility of operating the LCBO as a business.

As an example, at the moment there is an upward pressure on expenditures on an annualized basis of about 10% a year. In no way are the revenues increasing by 10% annually; so what we are getting is a squeezing of the profits. I do not care whether you are a New Democrat or a Liberal or a Conservative; the fact of the matter is that you need those revenues to operate. I have heard statement after statement from this government in connection with some valid program initiatives that it would like to undertake based on its policies, which it is unable to do at the moment as a direct result of lack of revenues.

It would be my very direct and vested responsibility to show results in that particular regard, but I would have to do that—I state this again—in such a way as to not disrupt the sensitive balance we have in Ontario where we do not promiscuously make available liquid libations to anyone and everyone. We have a tightly controlled system which operates and has operated extremely well by whatever government of whatever stripe.

As I see it, the majority, if you will, of my responsibility would fall back not so much on my political experience but on my business experience where I was involved with foreign purchases. I was involved with inventory, warehousing and trans-shipments of products to various locations. The third company mentioned in my résumé, Midwest Musical, was a Canada-wide company stationed in Winnipeg. It shipped right across the country and had various retail customers that purchased from us. We dealt with foreign exchange. We dealt with companies and manufacturers in a dozen or so countries of the world.

The LCBO is involved in a very similar undertaking. At this point in time I have done a brief review of some of the operations of the LCBO, and I want to make it clear that I have not had a briefing from any staff yet, although it would be my intention, subject to the decision of this committee, to get a briefing as quickly as possible.

Some of the things that I would like to look at in terms of profitability do not in any way, shape or form have any impact, to the best of my knowledge—as an outsider looking in at the moment—on the social agenda of the board. They are things like a particular period of time that the inventory sits in the warehouse before it is shipped to the various 635 stores that are part of the LCBO network.

Perhaps we can tighten up some of those kinds of operations; in other words, perhaps we can reduce the number of days. Some of you are familiar with the term "just-in-time delivery," which is a familiar phrase in the automotive industry. If you are going to reduce the cost of the operation, then you have to have a more sophisticated delivery system and a network that gets product into the hands of your retail outlets much more quickly. That is one of the ways we can investigate with a view towards reducing costs not necessarily increasing revenues, but increasing, by the very nature of that exercise, the profitability of the operation.

I would hope to bring that experience to play in terms of what the LCBO requires and what I might be able to

add to the overall direction, focus and objectives of the operation.

Mrs Marland: I would like to say for the record, on behalf of the taxpayers for whom I am responsible, that I feel Ontario would be fortunate to have Mr Brandt, with his experience base, in that position with that particular government agency.

The Chair: A totally non-partisan view. Mr Owens and then Ms Haslam.

Mr Owens: I guess from time to time the LCBO has been accused of being inflexible to consumer demands and not particularly responsive to product demands. The sheet we have here indicates that tastes have certainly changed from the standard Ontario rye and ginger ale consumer to more of the coolers. I am just wondering, on the eighth day of your employment in this position—do not forget, even God rested on the seventh day; so you may have to revise your schedule—if you have any plans around making the LCBO more responsive to people's tastes and, I hesitate to use the word, needs with respect to alcoholic beverages, but I guess people have definite tastes.

The second part is with respect to balancing the need, especially in the area of wines, certainly to promote our domestic products, but again balancing the consumer demand for more imported products at reasonable prices.

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Mr Brandt: That is a very good question. One of the things I received a phone call on right after the public announcement associating my name with the LCBO was a complaint to the effect that some of the ethnic products that are available in some countries, although highly desired by some of the immigrants who have moved to Ontario, and to Toronto particularly, are not available to them in some of the stores.

There is a consumer review that has recently been completed by the LCBO, which I have not had an opportunity to read as yet, that goes into some of that area of concern in an attempt to meet some of those changing trends, because drinking habits are changing. I think you put it very well when you said that the traditional rye and ginger ale consumer of the past may have shifted and moved on to something entirely different today.

I think the LCBO has to reflect those changing trends and some of those changing lifestyles, whether it relates to wine products, both imported and domestic, and the need, I might add, and the very real concern that I have about supporting and assisting in the development of our own domestic producers. That is an extremely important question because they are under a great deal of stress these days from foreign imports, as you are well aware. I think the LCBO has to reflect those changing circumstances, those changing trends in lifestyles. I want to monitor that in a very sensitive way. It would be my hope to be able to visit some of the stores.

I might say that my method of operation is not simply to listen to those people who have sat around the board offices or in the higher echelons of the administrative staff. My method of operation, as some of the people who are here in this room know from my past experience, is to go to the people. I will go to the stores and to the managers, not in a way that would be upsetting to the operation but to find out what the average guy who works for the LCBO is saying about the operation and how it could be improved.

In the very limited conversations I have had to this point in time, one of the observations was the one that you are making, that the LCBO and its 600-plus outlets have to reflect more directly and in a more immediate way some of the changes in drinking styles of some people. I am certainly not talking in any way about abuse of alcohol but the use of alcohol in a responsible way.

Mr Owens: I am encouraged by your sense of social responsibility with respect to the wide-open sale of alcoholic beverages. I am not sure that I would agree with the placing of alcohol in corner stores so that it is accessible to all people. I think that is an encouragement of an abuse of lifestyle that we are seeking to limit at this point, and its subsequent effects on our health care and social systems.

I am curious about your response to the current issues around GATT and free trade, knowing there is going to be great pressure coming from these agreements and from the GATT organization overseas. I am not sure you have had the time to think about that, but how do you plan to respond in a way that we can protect our domestic industry, especially the wine industry, which as you quite accurately point out is under great pressure? How can we go about protecting that industry without incurring the wrath of our neighbours to the south or across the seas?

Mr Brandt: It is extremely difficult because of the GATT regulations. I might add that if you go back to the résumé, when I served as Minister of Industry and Trade this happened to be an item I was charged with the responsibility of handling, in a former lifetime that I was involved with in a former government. It was the question of how do we support and how do we protect, if you will, primarily the Niagara grape and wine industry against the onslaught coming from California and from some foreign sources in Europe.

I do not have a quick answer for you—I do not believe anyone else has a satisfactory response either to the question you have raised at this point in time—other than to say that it would be my intention to meet with those groups—the wine and grape industry and those who are directly involved—to see what kinds of things they would like to have put in place to protect them that are legal and defendable, if you will, from an Ontario perspective.

Obviously, because it is an international issue and we are a provincial Legislature and at the provincial level, we have to co-operate with those laws that are set down internationally under the General Agreement on Tariffs and Trade. It therefore only follows that you have to work within a certain framework and abide by the laws of the day—obviously it would be my intention to do that—but at the same time to try every technique possible to protect the industry that we have here, because it goes without saying that when you are protecting that industry you are also protecting the jobs that are associated with that, which are spinoff jobs from the LCBO and its retail outlets and the sales it is responsible for.

I intend to look into that. I do not have a satisfactory quick answer for you other than to say that I will try to find out what the industry wants and respond as effectively as I can, obviously in concert with Mr Kormos, the Minister of Consumer and Commercial Relations, who is charged with the responsibility of looking after the LCBO in the final word of it all.

Ms Haslam: What is the salary for this job? Do you know, Mr Brandt?

Mr Brandt: The range, as I understand it, is $83,000 to $122,000, to quote Mr Rae who made some comment on this. I am in the middle somewhere. I do not know the exact salary, to be very honest with you. It is in the middle somewhere.

Ms Haslam: Did you make a contribution to a political party in the last provincial election?

Mr Brandt: Yes.

Ms Haslam: Okay.

Mr Owens: Was it the NDP?

Ms Haslam: It seems to be us. Are you a member—

Mr Brandt: Do you want to know which political party?

Ms Haslam: Certainly, Mr Brandt. What political party?

Mr Brandt: Well, why do you not ask me?

Ms Haslam: You had not given me a chance.

The Chair: I want to know.

Ms Haslam: Which political party did you make a contribution to?

Mr Brandt: I only made one contribution. Again, it was for more than I could afford, being a man of modest means, but it was to the Progressive Conservative Party of Ontario.

Ms Haslam: Fine.

Mr Brandt: Are you familiar with them?

Ms Haslam: There are not too many who I know yet. I am new here, and I have not met too many of them. Are you still a bona fide member of a political party in Ontario?

Mr Brandt: Yes, I am.

Ms Haslam: Okay, fine.

Mr Brandt: Of the same political party.

Ms Haslam: Thank you. Do you feel that these political questions have anything to do with your abilities to handle this job?

Mr Brandt: No. I responded to that earlier, I think, in part, and one of the other members of the committee, Mrs Marland, raised the point. I do not see a conflict.

Ms Haslam: I did not ask for conflict.

Mr Brandt: A conflict in political terms is what I meant to say. If one were to arise that would cause me or the government any discomfort, I think my relationship with the individuals is such that we would sit down and discuss it. If it was a resolvable item, then we would resolve it. If it was not resolvable, then I would probably move on to something else. I do not at the moment see that kind of problem, however.

Ms Haslam: No. What I asked is a more general question. Do you feel that the political questions have relevance to your qualifications to handle this position?

Mr Brandt: There are certain circumstances under which they might, but I cannot see them applying to me at this point in time.

Ms Haslam: Do you feel comfortable with this process of job search?

Mr Brandt: I feel comfortable with it. However, as I stated to the Chairman, there are some areas—we probably will not have time to get into them—where as a candidate for a particular position I did have some brief comments I wanted to make with respect to the process. But I think the process, being new, is one that can be refined, improved upon and can reflect exactly what this committee wants to do with regard to making sure that the appointments are the best possible ones in the interests of the people of Ontario. The process itself has a great deal of merit, in my view, and I think will probably be improved upon as the committee has an opportunity to work with it.

Ms Haslam: Part of the job description and responsibilities of the position is developing and maintaining harmonious working relationships with the private sector. Do you have any insights into how you would like to look at that?

Mr Brandt: One of the first things I would do is meet with those individuals in the private sector, the beer industry, obviously the wine industry, those who are concerned about the operations of the LCBO, and it obviously is of paramount concern that you have a co-operative working relationship with those individuals. In the past I have attempted to work on the basis of co-operation and consensus. I would try to bring those skills to play in terms of working with the private sector. I do not see a problem there at all.

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Ms Haslam: Part of it also is motivating—

The Chair: Ms Haslam, we only have about a minute left. Mr Hayes, your colleague, has a question as well.

Mr Hayes: Welcome back, Andy. Actually all I wanted to do was make some comments. I know you talked earlier about how your political experience really did not mean too much here, that it is your business experience, but I would just like to say that I think your political experience in understanding the various ministries would probably be an asset in this position. I am really glad to see that it appears all three parties are somewhat in favour of your getting this appointment.

I do have one concern, though. I got a call from a former colleague of yours and he had quite a concern about whether we should really look at appointing you or not. That was Reuben Baetz. I talked to him the other day on the phone. Anyhow, maybe you can answer to that. I do not know. That was just in fun with Reuben.

Mr Brandt: I want you to know, Mr Hayes, that I am well aware of the interests of the wine industry in your

particular geographical part of Ontario as well. It is a rather new industry for your part of the province, but one that is gaining in importance. The Pelee Island area is not too far from your riding. We will pay attention to that area as well.

The Chair: Mr Perruzza, you had a quick question?

Mr Perruzza: We can move on if it is—

The Chair: We have time for a quick question.

Mr Perruzza: It relates to the growth of the middle management and the upper management of the LCBO and a decline or a decrease in the number of jobs that the LCBO has offered at the lower end; that is, in the retail stores. I guess you have a monumental task in front of you in coming to grips with a lot of those issues when you actually take on the job of chair of the board, and I just wanted to know what your feelings are in that regard, in dealing with a board or bureaucracy that in my view is top-heavy.

Mr Brandt: Coming into it new, I am not aware of that, but I will take it at face value that the comment you are making is accurate and that there has been an increase in the upper end of the employment categories and a reduction in the lower end. That would seem to me on the surface not to be in the best interests of the public generally, because the people in the stores, who are meeting the public directly, are the ones who I think really serve the LCBO in a very direct fashion and provide the service that our customers, who are the people of Ontario, require.

I would like to look at that. I understand that this committee has the authority at some point in time, unless I have misunderstood the mandate of the committee, to call me back in six months or a year or whenever. If that were to happen, I would like to give you some direct observations on that because—let me say this—I disagree in principle with that kind of shift happening, particularly because those jobs at the lower end are extremely important and in many instances are filled by people who cannot find jobs elsewhere.

At one time it was quite acceptable, and in fact understood, that jobs in the LCBO went to many of our veterans and people who perhaps were coming back from having served our country in another capacity. The government found employment for them in the retail stores of the LCBO. If those jobs are being lost as a result of other jobs being created at higher salaries in a more administrative and bureaucratic sense, then that is something the chairman would have to look at. I intend to look at it. I have dealt with those kinds of problems before and I would hope to be able to deal with that one in a responsible way. I cannot tell you what my answer or solution will be at this particular point in time, but I certainly will look into it very seriously.

The Chair: The Liberals have a few minutes left and Mr Grandmaître has another question.

Mr Grandmaître: One short question. Mr Brandt: When and how did you find out that you were the lucky appointee?

Mr Brandt: I am of the understanding that I am a nominee at this point in time and that I am not going to be appointed until after the deliberations of this committee have been concluded. That was my understanding with the Premier who, if I may add an editorial comment, places great significance on the decision of this committee with respect to your recommendations. So I am not appointed yet. One of the questions I had was really in response to that. I felt it was perhaps inappropriate of me to get a complete and thorough briefing as someone who was only a nominee prior to coming before this committee.

I want to make it clear that I am not appointed; I am a nominee. I await, as will others, the decision of this committee. I think it would be of some benefit to others who come before you, and again I offer this only by way of, hopefully, advice to a committee that is new at this process, as I am, that perhaps the candidates for positions should be advised as to what background they should prepare in advance of coming before you.

If, as an example, you wanted me to be thoroughly briefed on all aspects of the function of the LCBO, to read the annual report, what I have done to this point in time is to try to garner some information to be up and running, presupposing and on the assumption that I would get a favourable response from the committee, but I do not know that. So I do not know that I have been appointed until you make your decision, and I guess it is referred to the Clerk of the House from that point.

Mr Grandmaître: Mr Chairman—

The Chair: Very briefly.

Mr Grandmaître: Yes, very briefly. It looks good, Mr Brandt. Mr Rae has signed the OIC. I want to wish you well.

Mr Brandt: Thank you very much.

The Chair: One quick question. You mentioned your concerns about the loss of sales to the US side of the border. As chairman—and I know this is not the decision you would ultimately take, but you would certainly have input into it—would you consider Sunday openings as something that could be part of a total package to address that problem?

Mr Brandt: It is a very interesting question and one that I would not touch with a 10-foot pole.

The Chair: I figured you had to have one hot one. This has been a piece of cake for you.

Mr Silipo: I do not have a question dealing with the appointment. I know at a couple of places during the process Mr Brandt indicated that he might have some comments to offer to the committee about the process. Perhaps at some point we could take him up on that and either invite him back or ask him to send us some comments about the process. It is useful, as we review the process, to have the views of the people who have gone through it themselves.

The Chair: Good point. I think we are going to be encouraging virtually every chair in the province to provide us with input into the new process, and any suggestions or advice they can provide would be most helpful.

members and all the members of the Legislature, we wish you well.

Mr Brandt: Thank you. I am pleased to have had this opportunity. I wish all of you well in the true spirit of non-partisanship.

1430

BILL ECKERT

The Chair: Mr Eckert, would you like to come forward, please? Welcome to the committee. Bill Eckert is the intended appointee as a member of the Planning and Implementation Commission. Mr Eckert was selected by the Progressive Conservative Party. Mr Eckert, we will give you an opportunity, if you wish, to make a few comments before we begin the questioning.

Mr Eckert: Very well. I have prepared a few comments. As I reviewed the possibility of becoming a member of this particular commission, I thought it was so wide-ranging that I might try to give it a particular focus. Whether you would agree with the focus I am going to give in my opening comments, I do not know.

The Chair: Could I ask you how long these comments will last, Mr Eckert?

Mr Eckert: I would expect three to four minutes at the most.

The Chair: Fine. I do not think that is a problem. Go ahead.

Mr Eckert: As a person such as I looks about for new areas of interest and involvement, it seems invariably to lead me to the consideration of working at something where I think I can make a difference, and maybe a significant difference. I believe that as a commissioner I would have that opportunity. I also believe that my direct involvement with the commission over these past years as an educator has given me the experience that will be useful to the commission and to the government, to the school boards and teachers and ultimately the students in the schools of the province of Ontario.

I believe I have an appreciation of how difficult the work of such a commission can be at times and an appreciation of how important the work of the commission has been and will continue to be into the future, in spite of the difficulties that have arisen and no doubt will arise in times to come. I do not know if this commission has a new mandate or indeed it is as it was put together in 1984 and 1985, but I do know and appreciate the importance of ensuring that there are full and complete secondary programs offered to students by all school boards across the province, and it is important to ensure that the extension of secondary school grades is brought to completion in the Catholic school system with as little disruption as possible and in a fair and equitable manner.

I noticed in the handout I received upon arrival, and this is probably in front of you, that there is a listing of the responsibilities of the commissioner. In particular, number 6 on page 4 outlines the broad-ranging issues that the commission will deal with. I have not clarified in my own mind what "unfinished Bill 30 business" is going to be, but it could be a number of different things yet to be defined. I think we have also come to understand that there are models for sharing between coterminous boards and that when this sharing is based on goodwill and genuine respect for the autonomy and rights of each other, that can produce opportunities for greatly enhancing not only facilities, but also programs and program offerings, personnel services and learning resources.

I believe that as those interested, involved and responsible for education continue to clarify our vision of the learner, we will come to realize to an even greater degree the important place technology and communications will hold in business, in industry, in culture and in education, and also to realize even more acutely the high costs of these components in education. These in turn will become compelling reasons to look more closely at sharing models that permit co-operation not only between coterminous school boards delivering secondary school programs, but also between community colleges and universities as well as the business communities in which these institutes of learning exist and also between all those bodies and the municipalities and indeed the various ministries of the government. One ministry of the government that comes to mind in this instance, of course, is the Ministry of Skills Development.

While I do not know if the commission will or should be directly involved with very directly encouraging the further development of models of co-operation, I do know that the commission will need to give careful consideration to the restructurings that are now taking place in very many educational institutions in Ontario. Should this commission be mandated to encourage this elemental aspect of restructuring—I am talking about the co-operative models—it would be legitimate, in my view, and it would also make for an interesting time as commissioner.

With those brief opening comments, I will turn it back to you.

The Chair: Thank you very much, Mr Eckert. The Progressive Conservative Party has the first opportunity on this selection. I do not know, Mrs Marland, if you would rather pass at this point and we will come back to you.

Mrs Marland: No, I am ready. I did wonder before if you were going in rotation, because you started twice with the Liberals.

The Chair: I was advised earlier that this was a selection of the Conservatives. Now I am advised it was a selection of the Liberal Party; so Mr Grandmaître or Mr McGuinty, I will give you first opportunity.

Mrs Marland: Can I just ask a point of clarification? When you are saying "selection," are you telling us who has put forward these names? Is that what you mean?

The Chair: Yes. The party selecting has the first opportunity to begin questioning.

Mrs Marland: That is interesting.

Mr Grandmaître: We had a list to choose from.

Mrs Marland: I see, okay.

Mr Grandmaître: On the transfer of schools from the public to the separate school system or vice versa—permit me to be a little parochial at this time—in the Ottawa-

Carleton area we are faced with a lot of these problems. I would like to know your feelings. How long should your commission wait before it gets involved in the process? I know you do get involved from the start of the negotiations, but some of these negotiations have been going on for months and months with no results. I find it very strange; it seems that you people have a tendency to lie back for months and months until you step in. I would like to ask you, why is this being perceived? Maybe I am totally wrong.

Mr Eckert: Maybe I should clarify that I have not been a member of the commission and my direct involvement with the commission has been as a director of education of a Catholic school board that was involved with extending; so if I was talking about why the commission was waiting, as you ask, I would be guessing at best. I am sure that once I become a commissioner I will have a better appreciation of why they take so long to act and actually effect the transfer, the sale or the leasing of a school.

I think it is fairly clear, first of all, that everyone has an opinion about education; everyone has an opinion about transfers and leasing of schools and so on. We all appreciate, I think, that people become very attached to the schools they attended and from which they graduated. A lot of emotion surrounds the possible transfer of schools, so it does not surprise me that it takes time to give consideration to the various ways and means of solving conflicts and actually effecting transfers when clearly the solution is there.

I believe there have been about 10 transfers that have occurred across the province; with that kind of experience behind us, I think the expectation that the commission would move more quickly is a realistic one because people are accustomed, they have gotten over the initial shock of the potential transfers. I would hope that I can be a part of moving that along.

Mr Grandmaître: What do you think of province-wide pooling?

Mr Eckert: I believe it probably has some weaknesses, but in terms of equity it is probably the better way to go. The pooling that occurs within the coterminous board boundaries right now is an improvement and it accomplishes the goals to some degree, but we all know that it is not equitable across the province. The only way to get the equity would be through provincial pooling. However, we also know that many trustees any many boards feel that with the loss of their ability to tax locally, they would lose some of their autonomy and they are very reluctant to give that up. I am sure it is a topic that will get continued consideration and discussion over the years to come.

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Mr McGuinty: How did you come to be a candidate for this appointment?

Mr Eckert: I was contacted by the regional director of education in southwestern Ontario and asked if I would let my name stand. That is the sum total of the contact. I am just coming to some conclusions today that apparently my name was under consideration prior to that. Of course I said yes at that time, and I was rather surprised at the quickness with which action followed.

Mr Grandmaître: Did you have to submit a résumé?

Mr Eckert: I was asked to fax a résumé, yes, at the time, right after that phone call, which I did to the regional office and which I understood was transferred within a day or so to Toronto. Thus, you can correct the age. You can increase my age by one on the résumé. It was one in existence that I simply faxed at that time.

Mr Grandmaître: Trudeau did the same thing.

Mrs Marland: The Planning and Implementation Commission made up of seven or eight members?

Mr Eckert: Six, I believe.

Mrs Marland: Do you know if its present makeup is an equitable distribution between Protestant and Catholic?

Mr Eckert: I believe it is. I did not take a head count and I had invited both staff and the commission members to our board when I was director, and although in actual fact neither of those individuals were separate school supporters, I nevertheless felt comfortable and I thought at that time that it was balanced. I see from the proposal that it will be, if it is not.

Mrs Marland: Do you think it should be?

Mr Eckert: Yes, I would think it should be, given the particular nature of this commission. I will be interested in hearing reasons why it should not be, if such exist.

Mrs Marland: The commission is now six and a half years old and at the time it was established, I actually was in municipal politics, listening to the trustees of both the public and the separate school board in my municipality. I am wondering whether in fact the Planning and Implementation Commission is now redundant after six and a half years and where we are with the implementation of extended funding to the separate schools. How do you feel about that scenario?

Mr Eckert: Your thoughts are not terribly different from my own, and if you had asked me that a year ago, I would have said the Planning and Implementation Commission, for all intents and purposes, does not exist any more. It was certainly winding down its work, although that followed very closely on the heels of some very controversial transfers of schools and retransfers, I guess, of schools and so on.

I had assumed, and my opening comments reflect my pondering that question, what is the new emphasis of the commission, if there is to be one? Is it the same as it was? In looking over the original purpose for the commission, I have come to the conclusion that those purposes still exist to some degree, but that in all probability there are maybe other needs, maybe a new emphasis on co-operative modelling, where we can no longer talk about the differences between the separate and public school systems but rather about in what ways we can co-operate, what our common needs are and how we can meet these.

Of course I had that feeling because of my own experience in my own locality, of having experienced very good co-operation between our board and the public school

board and having some sense of what can be done. I can only assume the current government has found a need for the commission and will help the commission further define what comes under unfinished Bill 30 business, in detail.

Mrs Marland: You are still the director of education at Huron-Perth?

Mr Eckert: No.

Mrs Marland: I am sorry.

Mr Eckert: I have been in education for 34 years. I retired as a teacher and educator, so to speak, last August.

Mrs Marland: I am sorry; I cannot recognize that from your résumé, otherwise I would not have asked the question. So you are retired now?

Mr Eckert: That is correct.

Mrs Marland: The résumé does not actually say that, does it?

Mr Eckert: No, it does not, as a matter of fact.

Ms Haslam: It is an old résumé.

Mrs Marland: Yes, that is right. Well, that answers the question I had. I remember the director of education in Peel, John Fraser, was an original commission member at the time he was still director. Although it is a part-time position, these government jobs they say are part-time always evolve into a tremendous demand on time. So it is great that you are retired and can have that flexibility.

I know there is a tremendous controversy in Ontario today on the whole subject of education. We have the concerns about maintaining a viable public secondary school educational system while we have extended the separate school funding. That war rages, as you know, through groups like Ontario Public Education Network, and right on its heels, now, we have the Association for Alternative Education; it is a formal association of people and organizations who are looking for funding for other than public and separate school systems in Ontario. How do you feel about the possibility of a Planning and Implementation Commission, if legislation was passed, trying to deal with yet a third chop at the pie?

Mr Eckert: The people who would come up with policy recommendations in that regard would probably have to have the wisdom of Solomon. However, as you say, it is not likely to go away and will receive discussion, maybe under the umbrella of this particular commission.

How it will be dealt with I am not sure, but the separate school system and the public school system, the larger public school system, are all part and parcel of the public school system of Ontario, as I understand the history, and the separate schools, the Catholic schools, that is, do operate under the authority of and the guidance of the Ministry of Education and fulfil all the requirements in that regard. I do not know whether this coalition of other schools would be prepared to do that. If they were prepared to do it, I suppose some consideration might be given to organizing it under an umbrella arrangement.

Mrs Marland: I think they operate under the Ministry of Education, because they have to be certified in order to operate as schools.

Mr Eckert: I do not know that they are all inspected, so to speak, whereas all the separate schools in the province, as I understand it, do submit to the inspection of the ministry.

I do not think we need to stop talking about the possibilities there, but if something was to be done, I would think, having heard from all parties in relation to Bill 30 and the common support for that bill and what has happened since then, that they would certainly be required to come in under the umbrella of one of the existing boards.

Mrs Marland: Ironically enough, this morning I met with the director of the Dufferin-Peel Roman Catholic Separate School Board, Tom Reilly, whom you would know, I am sure, and Patrick Meany, the chairman of that board. I met them to discuss the problems of a growth board for their region. It is a horrific story, with 62,000 students and almost a third of them in temporary accommodation.

I guess you would have to be in one of our offices to be on the receiving end of that question, about the public tax base, in particular the property tax base, which is where more and more education funding is coming from. The governments—and this is not a partisan comment; certainly it started before 1985—I would suggest all three governments in the last six years have reduced and will be continuing to reduce support for education from the provincial purse and it will be put more and more on to the back of the property taxpayers. Can you see some time in the future where very tough decisions are going to have to be made about funding public education?

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Mr Eckert: I think those tough decisions are going to have to be made. Indeed, I think they are being made and have resulted in the transfer of further costs to the local municipalities for education. That was a response to a decision that I guess the Liberal government at the time felt was tough. There is no doubt that the cost to the local municipalities did rise; that is, the local school ratepayers. Those cost decisions will continue to be difficult.

Just as a reflection, though, the same kind of comment has been made for many years, and it is not getting any better. The costs of education are rising drastically. We complain about it and we talk about the pain and whether it is really necessary. But it seems to me that the ratepayers in the province always come through in the end. To me it says that by and large they believe education to be a very important endeavour, that not only is it important culturally but also economically and in so many other different ways, and they probably will continue in spite of the pain and the comments to support education at a very high level.

I do believe the question is going to continue to be asked, and if it is not funded at the provincial level, then the funding will have to come from the local level. I cannot see the people in Ontario tolerating, let alone requesting, any reduction in educational services, whether at the elementary, secondary or community college or university level.

Mrs Marland: That was not the point of my question. The public is not going to ask for reduced education of our young people. That is a primary priority for all of us. It is how that service is delivered and who pays for it. The fact is that it is becoming almost unbearable for the local property tax base to provide education which had originally been a responsibility of the provincial government.

I think that is the question which, as part of this commission, you are going to be dealing with as you look at expansion of any program at all, particularly the separate school boards that are—I do not know how many, something like 20 in the province—operating in violation of the Education Act because they are operating at a deficit, including the board I met with this morning. Even operating at a deficit, they do not have equity in education for those students.

I do not mind saying that one elementary separate school in my riding looks like something you would expect for a summer school on a reserve in northern Ontario in terms of the physical plant and the conditions. I have to question how much expansion of an educational system we can support when older schools like St James School in my community looks like the description I just gave you. It is unjust for the students in one part of Ontario to experience a different standard of physical plant and facility than in other parts. Do you see that as something the commission should be looking at if it is implementing the act? Do you see it as a responsibility of the commission to make sure that with implementation goes a minimum standard to all children in this province?

Mr Eckert: I believe so very strongly. As a matter of fact, I think the responsibility in terms of recommendations on funding and accommodation, capital expenditure, does fall under the mandate of the commission, unless it is told to keep its hands off. I would see it dealing with those matters. The question you ask is very real, and eventually the commission may have to come up with a strong recommendation that this whole taxing base be changed to more of a pooling at the provincial level.

If that happens and there is a change in that area, I visualize that there will be still some local property taxation required in order that politics at the local level survives and people feel they have a hand in and some control over what is happening. But if the funding crunch continues, more will have to come from the provincial level, where the cost is spread over all contributors and not just property taxpayers.

Mr Perruzza: I am not fully versed in the role of the Planning and Implementation Commission, but from what I read here in the outline it has considerable jurisdiction.

My question really relates to Bill 30, the legislation that completed funding to the separate school system. That has caused some difficulties in the allocation of moneys for the expansion of schools, specifically the secondary schools. The way I understand it, what has happened is that with Bill 30 the Catholic system had built high schools, but they were not built to the public secondary school standard at the time; they really were built to the elementary standard. Now that we have completed funding the secondary system, how would you redress that inherent deficiency in just the physical discrepancy in standard of the facility?

I guess the broader issue, and I understand the Metro case here, is that the separate system receives about $1,600 less per pupil in tax revenues than does the public system. That is not enough money to go around.

Mr Eckert: My own experience in this area, having started a Catholic secondary school in the city of Stratford for Perth county, is that I found the money was forthcoming for new construction once the board got up and running and showed viability of that school within the county. This in turn also led to co-operation between the two school boards. So there are instances where the commission and the government of the day have responded with capital funding for Catholic secondary schools where viability is shown.

I know that is not fast enough. It is not occurring as fast as we would like it to, on the one hand. We also know that the separate school board's right to participate in the local commercial and industrial assessment base is a phase-in over a six-year period, and a lot of people would say that also is not fast enough, because that discrepancy of $1,600 per student is not likely to be cleared up, if ever, at least until that six-year period is over.

I do not know whether we can get out of the six-year time span to improve the situation you describe. I do not know whether we can spend more money on capital expenditures than we have in the past, but I know the people of Ontario would expect equity for all students, whether they be separate, public or otherwise, and also that they would continue to ask why the province cannot fund the construction of new schools to the extent required at this time. When you look at the total cost of education and compare capital construction as a percentage of that cost, all of a sudden it is not as significant as it is when you look at an isolated figure for the capital construction of a new school or 10 new schools.

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Mr Perruzza: I can think of about half a dozen secondary separate schools in my riding, and I will name some of them. There is Madonna high school, Regina Pacis, James Cardinal McGuigan, St Basil college school. These schools were all built basically to elementary school standards. There is no way these schools can deliver on a secondary school program as prescribed by the Ministry of Education. There is a very serious problem in that regard and it needs to be redressed at some point. But I will leave that for a minute.

Really, I have two other questions: one, the reason why you want to be on the Planning and Implementation Commission, having been a director of education in one of the systems and, two, if you have any political party affiliation and if you have ever contributed to a political party in the past.

Mr Eckert: Yes, on both those counts. I have been and am a member of the Liberal Party of Ontario and the Liberal Party of Canada and have contributed to both over time.

Mr Perruzza: Why would you like to be on the Planning and Implementation Commission?

Mr Eckert: Well, it is not because of the pay. First of all, I was quite honoured to get the call asking, would I let my name stand? I know fairly well what the commission is about and I know that it will not always be an easy task, but rather a difficult one. I suppose I am attracted to those kinds of situations as well. I am free, I am looking for an interesting involvement related to education and this is very timely. As I said earlier, maybe, just maybe, I can make a difference.

Mr Silipo: A couple of quick questions. I think you touched on some of this earlier on. Could you comment a little bit on how you view the role of the Planning and Implementation Commission in dealing with a situation where negotiations between public and separate school boards break down on the transfer of schools and you have a situation where a separate school board might be ready to take the appropriate court action that it has the right to take? What do you see the role of the commission in that instance?

Mr Eckert: I am not absolutely certain what the role is. I was not present when those transfers took place and the consternations occurred. However, I would expect the role would be one of facilitator. I think the actual decisions on the transfer of schools would be made by the government of the day, the government and the Ministry of Education, and maybe on the recommendation of the commission. But once the decision had been made in a certain direction, then I would think that the commissioners and staff would become facilitators of the process to ensure to whatever degree possible the rights of the parties were respected and that it was done in as smooth a fashion as possible.

Usually that means a lot of communication, and if there is a need right now in terms of the work of the commission, I think it is to give people an update on where we are with this whole process. I think the last report out of the commission was probably a year ago and some positive and interesting things have taken place since then. That is what I would see as the role of the commission.

Mr Silipo: I am interested in pursuing this a little bit more. In your view, if I understand you correctly, those decisions really would be made by the government, and the role of the commission would be to facilitate the decisions after those have been made, as opposed to the commission becoming involved in trying to mediate some of those disputes that might exist between the two different boards. I just want to make sure I am understanding you correctly. Please clarify that for me.

Mr Eckert: That is my understanding as you described it, but I stand to be corrected on that. I do not believe the commission has the authority, and I stand to be corrected, to mandate the transfer of a school facility.

Mr Silipo: I agree with you there, but it was my impression that the commission can play and in some cases has played a fairly crucial role as a mediator between public and separate school boards.

Mr Eckert: I used the word "facilitator."

Mr Silipo: Okay. So you do see the—

Mr Eckert: I was certainly meaning mediating, yes.

Mr Silipo: All right. The other thing I wanted to ask, really arising out of some of the questions that some of the members opposite were asking, particularly has to do with the whole question of financing. I think at one point you commented in response to one of the questions that there were some areas around that whole issue that you thought that maybe the commission ought to or might in fact make some recommendations on. Again, I have a question around the role of the commission in that respect. I want to be clear and fair in terms of whether you were providing those answers because you thought that the commission ought to play a proactive role in some of those kinds of decisions around possible changes in financing structures or whether you were giving your opinion in answer to those questions that were being put to you.

Mr Eckert: I was giving my opinion in response to the questions, and I would be wanting to hear discussion around the commission table before determining in my own mind whether the commission should play a proactive role in that regard. I think certainly the issue is far bigger than the commission and it might be indeed counterproductive for the commission to go off on that tangent on its own. There are other areas of finance not directly related to taxation that I think the commission may have to deal with. One is the whole thing about the purchase of service; that is, separate school boards, for instance, purchasing the education of separate school students who are in attendance at the public secondary school, purchasing education for those students and, conversely, the boards of education purchasing education for their students who are attending Catholic secondary schools. I think there are maybe some problems arising there.

I know we have a unique situation in Huron-Perth where we have established a Catholic secondary school in Perth but we have not done that in Huron. If you know Huron-Perth, to go the two jurisdictions it is 100 kilometres. When we buy services—and we buy the bulk of the services because almost all the Catholic students in Huron are in the public secondary schools—we are spending multimillions of dollars now to buy those services. Sometimes the charges are weighted depending on whether the child is getting special education or taking technological education and so on, so we may be paying 1.2 full-time equivalents for special education or 1.4 for tech education and so on. Yet I think that funding of those is found in the basic allocation per student to those boards. We have to make sure there is equity in the process that is set up and maybe the commission will be involved in those things.

Mrs Marland: Mr Chairman—

The Chair: Sorry, Mrs Marland, no supplementaries. We discussed this within the committee and I am not going to allow that flexibility.

Mrs Marland: Tony, could you ask what that means?

The Chair: No, no. You will have an opportunity later. Mr Silipo, do you want to continue, please?

Mr Silipo: No, I will pass on.

The Chair: Mr Owens, you have a couple of minutes.

Mr Owens: I have a quick question with respect to the amendments to the Education Act respecting French-language governance and French-language school boards. I am wondering if you could tell the committee, in your role as a commission person, how you can facilitate that process and chart and navigate some troubled waters in the province over that issue.

Mr Eckert: Okay. I wonder if maybe you could have another run at the question. Are you asking that in terms of capital facilities or programs or what?

Mr Owens: With respect to capital facilities, staffing, programming. Does that clarify it?

Mr Eckert: Yes. You would navigate those waters with a great deal of difficulty, I am sure; again, there would have to be a great deal of communication to all parties concerned. Certainly one would have to be a facilitator and indeed a mediator to ensure again that the capital facilities that appropriately belong with each of those sections of the school boards do arrive and do arrive in a timely fashion. It has always been a mandate that the commission had to ensure that a full range of programs was available to all secondary students in the province. That would be their mandate: to ensure that all sections—the English section, the French section, the public school boards, the separate school boards—did eventually get into a position where they could offer those programs in the proper facilities.

The Chair: That concludes your testimony before the committee. We will be deliberating on your appointment tomorrow and hopefully the decision of the committee will be communicated shortly thereafter. Thank you very much for appearing here today.

I will remind the committee members, as I just mentioned, that the first part of our agenda tomorrow morning at 10 am will be the 45-minute deliberation in respect to the candidates who appeared before us today. We will make decisions at that time and then move on to the candidates selected by the third party.

Ms Haslam, do you have a question?

Ms Haslam: I just did not wish to embarrass Mr Eckert. There were two names, and I had a question regarding that. For the Planning and Implementation Commission there were two names and two resumes.

Mr Silipo: The other appointee will be here Thursday.

The Chair: That is on Thursday, I am advised.

Ms Haslam: Thank you. That was a clarification I needed.

I wonder if I could go off topic for a minute, but while we are on record I would like to bring up something about the committee. Is that possible?

The Chair: Unless I hear an objection. Go ahead.

Ms Haslam: I have been looking over some of the past work of the committee and it has come to my attention that recommendations were made. In particular, the ones I was looking at were regarding the Ministry of Skills Development and the Ministry of Colleges and Universities. There are something like 17 recommendations. This is totally off topic, but I felt it was important enough in this committee that we look at it.

Do we ever look back and see where those recommendations are? For instance—maybe Mr Pond or Mr Arnott could answer that—once the recommendations come from a committee, 17, 18, 24 recommendations for a particular ministry for a particular thing, what happens to those recommendations once they are tabled? Do they go back to the ministries? Is there ever a check on those recommendations?

The Chair: That is a good question. I know having served on, for example, the standing committee on the Ombudsman in years past, we did an annual review of the status of recommendations made by that committee and were brought up to date; indeed, we could call an agency before us again or perhaps approach the particular ministry if we were not happy with its lack of action, if you will. I am not sure about this particular committee and I will refer that to our clerk.

Ms Haslam: Perhaps that answer could come back at another time, if you would like to look into that. In particular, I was interested in some of the recommendations that I had noted in the last session and wondered where they were at this time in the ministry.

The Chair: Okay. Good point. Anything else before we adjourn?

Mrs Marland: I see. We are adjourning and doing the discussion tomorrow.

The Chair: That is right. Sleep on it.

Mrs Marland: When it is not fresh in our minds.

The Chair: It should be relatively fresh in your mind, we hope, after one night. It will give the various caucuses an opportunity to deliberate among themselves prior to making a decision. The meeting is adjourned. We will see you tomorrow morning.

The committee adjourned at 1515.

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Appointments review

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Première session, 35e législature

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Le mercredi 30 janvier 1991

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 30 January 1991

The committee met at 1009 in committee room 1.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: The first matter on the agenda is the 45-minute deliberation: we can use up to 45 minutes to review the tentative appointments and the candidates who appeared before the committee yesterday. We have 45 minutes, and we may want to devote it all or the bulk of it to one or two particular candidates. We are not going to be rigid on that, I do not think. We will just see how this flows with respect to the experience we have in the next week or so. What I intend to do is simply go over them as they appeared before us and open it up for discussion and then have an indication on the part of the committee as to whether it supports the recommended appointment.

I reviewed with the clerk today that if we do have a dissenting opinion or a division within the committee, if those who are dissenting wish to do so they can do so as part of our report to the House in writing. It would be attached to the report as the dissenting opinion, the minority opinion, what have you, if they do feel strongly enough about a particular candidate that they wish to do that.

Ms Haslam: Mr Chairman, is that as an individual?

The Chair: Yes, as an individual you are allowed to do that.

Mr B. Murdoch: Can somebody move that this committee does not accept somebody or does not recommend this person? Or is it that each person who, say, did not agree with the appointment would have to put it in writing?

The Chair: You do not have to. You have that option.

Mr B. Murdoch: I realize you do not have to. If someone here did not think one of the appointees should be, does he make a motion that this committee not recommend that appointee to the Premier? Is that how that works?

The Chair: Sure, you can do that. That is the way we were going to handle them all. We can have a motion on whether or not we concur with the intended appointment. I guess we would be looking for a motion to concur with the appointment or not to concur with the intended appointment.

We made a decision a week or so ago that we would carry on these deliberations in open meeting. We may find through experience that we may on some occasions wish to move in camera. We will give it a shot in open session and see how it goes.

We will open the floor to discussion on Mr McCombie, who is the intended appointee as vice-chair of the Workers' Compensation Appeals Tribunal. Perhaps we should get a motion on the floor, and then we will discuss the motion. That may be the more appropriate way to go.

Mrs Marland: As both Mr Murdoch and I are substitutes on this committee, and I was not part of your organizational meeting, was the decision made to discuss these people in open session?

Mr Silipo: As you said, Mr Chair, that was our starting point. As you indicated, we did leave open the possibility that we might want to go into private session to do that. If you have a feeling for that, that should be expressed.

Mr B. Murdoch: You need a motion to do that.

Mrs Marland: My feeling is that if I were one of the people applying—in some cases people have applied; in some places, they are just appointed—I really would not want my eligibility discussed in public. I do not think it is in very good taste. In my 12 years of municipal politics, we never discussed any personnel matter in public. I really think it would be more appropriate for this committee to have the people come before it in open session, and then the deliberation of whether or not their appointments are supported by the committee in private session.

The Chair: You are free to make such a motion, if you wish, to move in camera.

Mrs Marland: I would make that motion.

Mr McGuinty: I understand the concerns raised by a fellow committee member, but if the objective here, as the Premier has stated, is to ensure openness in this process, then we will be defeating that objective if we go in camera. By keeping these meetings open, we ensure that our comments are objective. If we go in camera, I think there is a tendency to lose some of that objectivity. I would certainly support these meetings remaining open.

Mr Grandmaître: Also, Mr Chairman, I intend to ask you that the vote be a recorded vote. I am sure that Hansard and our minutes from this meeting and other meetings will be available to the public. Personally, I think we should leave our doors open and be open with the public.

Mr Silipo: I have thought a fair bit about this issue since yesterday's meeting, and it is with some reluctance that at this point my position is that we continue in public session. I am not sure whether my position will change over the course of time. It may, because having had a fair bit of experience in terms of interviewing people for various kinds of positions in the education field—I mean, obviously part is done in private. There is, in my view, a difference in this process.

I think I would agree with a number of the things Mr McGuinty said. It also means to me, however, that we need to be very careful, not so much for ourselves but in terms of the individuals, about the way in which we express our opinions about the individuals we have interviewed, if we remain in public. I think we can do that. It challenges us a little more, but I think in the end, the

process, as I see it right now, is probably better served by us doing that in public. As I say, it is subject to my mind being changed on that, but that is my position at this time.

The Chair: Any further discussion? We have a motion before us by Mrs Marland to move our deliberations in camera. All in favour of the motion? Opposed? The motion is defeated.

Mrs Marland: Are some people not voting, Mr Chairman?

Interjection: None of them has to.

Mrs Marland: Yes, they do.

The Chair: I am not sure what the rules of procedure are with respect to abstaining in committee. I know in the House you cannot do it; it is not allowed. For the new members, I am advised that it is not allowed, so I will call the vote again. All in favour of moving in camera? Opposed? The motion is lost.

Motion negatived.

NICK McCOMBIE

The Chair: We will move on to the first deliberation, Mr McCombie, and I think we will move in the same rotation. The party that selected Mr McCombie for review will have the first opportunity to speak.

Mr McGuinty: I want to make a few brief preliminary comments before I move into the specifics with Mr McCombie. I think we have raised in the past the concerns our party has, but I just wanted to touch on them again, because I think this is an opportune time to do so.

If we are to be seen to carry any real weight and if we are to give the impression that this is more than an academic exercise, then I think we should be able to have a power of veto and we should also have equal representation. To give the impression that we have some authority, ultimate authority, in dealing with these appointments, then obviously we need a veto power. The business of equal representation, of course, is that even if we had the veto power that alone would not give the impression that we were dealing with this in a fair and objective manner because the government side could always ultimately carry the day.

The other problem I see, and this is in fairness to the candidates appearing before us, is that there is a shortage of time here in which we have to deal with them; of course, that limits our ability to be thorough.

The fourth problem I see which we will encounter on an ongoing basis here is that we have no perspective. By that I mean we have no information regarding other potential candidates and, as I understand it, we have no right to call witnesses or to ask for submissions from anyone who might oppose the candidates, so that in essence we are often saying, I would think, that even if we give an opinion we have insufficient information on which to base an opinion. That ultimately, I believe, is an unfairness to the candidates.

1020

With respect now to Mr McCombie, I want to state for the record that in considering any of the candidates, it is not a matter that our party or, I am sure, any of the parties or any of the members on this committee will take lightly. We are unable to support Mr McCombie's appointment for a variety of reasons. First, the selection process was minimal, as I understand it, by a summary here: The search process consisted of a recommendation by an individual, Mr Ellis, chair of the Workers' Compensation Appeals Tribunal.

There is a letter contained in our materials from Mr Ellis, a thoughtful, well-written and well-intentioned letter, and I found it helpful. Procedurally, I want to note that paragraph 10 of the terms of reference does not allow such a letter, to my understanding, to be submitted. If we are, as a committee, to allow this kind of evidence to be submitted in the future, it would be only fair that we offer an opportunity to other parties to submit evidence which might be in opposition to a letter favouring an appointment.

Mr Ellis's letter, in spite of what I have said, was very helpful. He makes reference to the fact that vice-chairs are normally lawyers. However, that does not give me any great concern here, because Mr McCombie, based on his record of dealings with the tribunal and his publications, appears, if not formally educated as a lawyer, to effectively possess the same knowledge as one specializing in this particular area.

What does give us concern is not that Mr McCombie does not possess expertise, but rather that his background has been as an advocate, a partisan person representing workers. It is significant that on page 3 of Mr Ellis's letter he candidly offers: "My colleagues here at the tribunal, both worker and employer members, and vice-chair, are opposed to the transfer of worker or employer members to the vice-chair role. Their opposition is based primarily on their concern as to the impact of such an appointment on the tribunal's acceptability within the partisan communities." He goes on to say: "Of particular concern to my colleagues is the potential impact on the impression of fairness in the minds of the individual employers who, if Mr McCombie's appointment goes through, will be parties to cases in which the hearing panel will be comprised of an employer member, a worker member and a former worker member."

That is not insignificant evidence, that present worker and employer members and the vice-chair sitting on the very tribunal itself have some opposition to this appointment. I think that is very weighty evidence indeed and not to be easily dismissed by us.

That brings me back to my earlier point. It would have been of some interest to have perhaps other members or vice-chairs on the tribunal to appear before us or even to submit a letter to lend some balance to the evidence that appeared before us.

Mr Ellis offers as well: "It does seem probable that among those who find their way into partisan professional assignments"—and, I might add, such as Mr McCombie has been fulfilling for some time—"one will be likely to find a lower proportion having the personal characteristics required for neutral adjudication."

Based on what I have indicated, we are unable to support Mr McCombie's appointment.

The Chair: Do the Conservative Party members want to comment? Mr Grandmaître, did you want to say something before I moved on in the rotation?

Mr Grandmaître: Simply for the record, I totally agree with my colleague Mr McGuinty that Mr McCombie might be doing an excellent job at the present time, but I do not feel that he would be an impartial judge, if I can call him a judge, an independent or neutral judge, and for that reason I will be voting against his appointment.

The Chair: Mrs Marland, do you want the floor?

Mrs Marland: Yes, I do. Some of my concerns have been expressed by the official opposition members and I will not repeat those because they are redundant.

When I look at the position of vice-chair of this particular tribunal, I feel very strongly about the significance of that position. This is not like many of the government agencies, boards and commissions where some aspects of an individual's history would simply not be significant. This is a very significant tribunal. Therefore, the experience of the individuals who are appointed to it, particularly as vice-chair, is significant.

I must say that with my experience on the legislative committee which toured this province on two different pieces of legislation—Bill 162, which I am sure most of the government members are familiar with, being the bill that dealt with the reforms to the workers' compensation system in this province, and then Bill 208, which should have been a further remedy to the problems associated with workers' compensation in this province in terms of occupational health and safety—and having spent the number of hours that I did with that committee both here in the Legislature and when we travelled the province, dealing with this whole aspect of the protection of workers and the subsequent compensation of workers who sustain injuries as a result of their workplace exposure, I see the vice-chair of this tribunal—I have not seen the whole agenda of this committee as to what other appointments you will be dealing with down the road, but I cannot think of an appointment that will be more important than this particular one.

Therefore, the total objectivity of the vice-chair, in fairness to everyone and to maintain the credibility of that tribunal, has to be paramount in our decision today. I would be saying exactly the same thing if we had a very talented person whose background was totally on another side. I see in the résumé for Mr McCombie a very large void, and the large void is in the area of administration. I respectfully suggest to you that to approach this particular position with that vacuum of administration, the experience of dealing with both sides of an issue would be very difficult, if not impossible, for this individual.

1030

Without any management experience at all, and only coming from the purview from which he does come, I really wonder whether he is in a position to understand the other side. We do have a flawed system in workers' compensation and I am sure there is not a government member on this committee who would dispute that fact. If you had the experience—and maybe you have; I do not know your individual backgrounds. I am saying this to the government members. I guess I do know the individual backgrounds of the people who happen to be sitting on the committee on this side of the room this morning.

You only have to hear first hand what our legislative committee heard as we travelled the province on Bill 162 and Bill 208 to know that our system is seriously flawed. I was concerned yesterday, in answer to one of the questions, when Mr McCombie did not really accept that. In fairness I can only paraphrase his answer, but he did say something about, "There have always been problems," but he really thought things were working fairly well now. I think he said something in that context.

Then he said that in any case the tribunal was not where the problems were. He said that the problems were with the Workers' Compensation Board and that the tribunal was apart from that. I really have a very strong disagreement with that. The tribunal is apart from the Workers' Compensation Board, but the tribunal is part of the whole system of trying to look after workers in this province, equitably making sure that employers are part of looking after those workers.

I was rather surprised at his point about the fact that there was no problem with the tribunal. When the tribunal was established, it was established because it was thought that it might be a remedy for the problems that existed in the system, and it has proven that it has not been a total remedy. I feel that while we have such a flawed system, perpetuating it by making any more mistakes is very serious.

My feeling is that Mr McCombie comes only—solely and exclusively—from one side of an issue for which he is going to be sitting in judgement with the very heavy responsibility of representing both sides. I think that would be unrealistic for Mr McCombie, in his sincerest wish to execute that office, that it would be asking too much of him, not in terms of his personal ability whatsoever—I do not question his personal ability. I do not question his experience. He is obviously a very competent individual. But what I do question is that his experience is solely from one side.

Just briefly, there is only this comment that I wanted to make about Mr Ellis's letter. I must admit that I did not know until Mr McGuinty mentioned it that these letters were not to be part of submissions. I did not know that, since I am substituting on this committee. My reaction to the letter when I read it and when I saw it—not knowing what the ground rules were supposed to be—was that I did not think it was appropriate for the chairman of the Workers' Compensation Appeals Tribunal to be in a position of endorsing his own vice-chair. I thought that was a reflection that was somewhat incestuous. I feel a chair should be appointed and a vice-chair should be appointed, but I do not think a chairman should be able to write an endorsation of an individual because of the fact that he is the chairman. I just felt that was inappropriate.

Perhaps the idea of having letters from a whole range of people who know these individuals is something the committee may want to look at. In fairness I have to say that for all of us on this committee who equally share this responsibility, and I do not take this responsibility lightly, that it is a heavy responsibility, particularly if you look at the workers' compensation system in this province. You

know as well as I do that we are talking about millions of dollars, and that is not the biggest thing; the biggest thing is that we are talking about the health and safety of workers.

Set aside the multimillions of dollars that we talk about in this system and look at what is priceless, to which we cannot attach any dollar amount, and that is the safety of our brothers and sisters who work and are employed in the workplace. Those individuals and their health—I can answer your question afterwards, Karen—

Ms Haslam: Thank you.

Mrs Marland: —and safety is priceless and there is no dollar attached to it, but I only say that to emphasize the significance of what this tribunal is about and why this appointment of the vice-chairman is such a significant appointment.

That is why I personally was concerned about a chairman writing a letter with regard to his or her own vice-chair. For those reasons I cannot support this appointment.

1040

Mr Silipo: I guess the first decision that we will be making on this process will give us the first opportunity to split on it, because we will support Mr McCombie's appointment. I want to explain some of the reasons why, and some of my colleagues here have some comments to add to what I am going to say.

I want to start by saying first of all, partly in response to some of Mr McGuinty's opening comments about the process, I think we all recognize that the process we are undergoing may not be perfect, and in fact we may all come to some agreement as to ways in which we can improve it down the line, but I think we need to keep in mind that our role in the process is not so much the appointment part as it is the review part.

There is in my view a very clear distinction in what that means for us in this sense: It is not our role to decide if there are other candidates who might be as good as or better than the candidate who is before us. That is not our job in reviewing the intended appointment. Our job is to determine if the individual who is before us is capable and able to do the job that he or she is being recommended for.

I think that is very different from a situation where we may be interviewing three of four people for a particular job. That presumably is what has happened before the recommendation and the decision on the intended appointee is made by the ministry or the Premier's office, as the case may be, and then comes to us for the possibility of review.

I think it is important to keep that in mind because our answer and our position on this one and indeed on any of the others might very well be different if we were in a situation where we as a committee were determining who in our view would be the better person to fill a particular vacancy.

I think that we all agree on one thing with respect to Mr McCombie. That is that in the end the issue about his appointment is the one of impartiality, the movement by him from his present position, to which he was appointed as a worker representative, to the vice-chair position, which is deemed to be an impartial position.

I am satisfied, having heard his comments yesterday and reading the comments of Mr Ellis—I want to comment a little later about that whole aspect of things as well; Mr Ellis's letter, that is. I am quite satisfied that Mr McCombie (a) is quite aware of the transition that he needs to make and (b) is quite capable of making that transition. I think that has been demonstrated, again relying on Mr Ellis's information.

More particularly it was demonstrated to me in his approach to some of the questions that were asked. When the questions around the workers' comp system were asked by Mrs Marland, for example, I certainly for one, and I am sure everyone on this side, agree that the whole workers' compensation system is seriously flawed, as Mrs Marland said. What I heard Mr McCombie tell us in effect was that the changes that would have to be made were our responsibility and that the role of the tribunal was to apply the law as it was to the particular cases that were before them.

If there are problems with the legislation that guides them in terms of how they are to make decisions, that is an issue that we as legislators need to come to grips with and make the appropriate changes in that legislation. I certainly for one believe very strongly that there are a number of changes that we need to make in the whole workers' compensation legislation. Particularly as it relates to the Workers' Compensation Board. I am sure even with respect to the tribunal, that is something I know less about, but I can tell people that it is an area I am quite interested in and so will probably know a little bit more about as time goes on. I think that is the distinction for me.

On the question of Mr Ellis's letter, I have to say that I do share, and I think I made this clear earlier on when we were talking about the process, that in the end to me it is irrelevant how a chair of a particular agency, board or commission feels about an intended appointee. I do not rely, in any great way at least, on those particular points of view, whether they are in favour of or against. What I found useful in Mr Ellis's letter, and I appreciate that it is difficult to make the distinction in the two larger points that are made in Mr Ellis' letter, is the explanation of the recommendation; that is, why he feels Mr McCombie would be an appropriate person to fill this role despite all of the things that might go against that.

It is in that aspect that I see there is a usefulness to this, although I do agree that we may, again as we go through this more and more, have to come to grips with the nature of letters like this and how we use them and how they come before us. That aspect of it is useful for the committee because it goes to the very heart of what the issue before us is. Mr Ellis, in his useful fashion, has put very clearly before the committee not only his own views on the matter but indeed the views of the other members of the tribunal, so that information is also before us. That ought to balance, I suppose, the recommendation that he comes up with at the end.

Coming back to this question of impartiality, I think we need to also keep in mind one of the things that is in Mr Ellis's letter, which is that it is wrong to assume that people who are appointed to the vice-chair position come to those positions completely devoid of any particular bias,

whether it may be in favour of workers or in favour of employers, because I am sure that if we were to look critically at each of the vice-chairs we could easily distinguish them as falling into one camp or another; perhaps not, but my guess is that we probably could, at least most of them, if not all of them. I think that is something that we need to also keep in mind when we address this issue of impartiality.

In the end, the bottom line for us is, and ought to be, is Mr. McCombie able to make that transition in a way that will allow him to fulfil the role of vice-chair in an impartial way? I think the answer to that is yes, and on balance then, in the end, that is why I and the members of the government will support this appointment.

Ms Haslam: I think Mr Silipo has covered quite a number of points that I wish to bring forward talking about the process and the fact that a veto power is not the issue here. I think it should be very clear that we are looking, particularly in this situation, at the experiences and the qualifications of a candidate, and I think Mr McCombie has those qualifications that we should be looking at. The criteria are very important and that is what we are reviewing, his experiences and his qualifications. I will not go and repeat everything that Mr Silipo has said, because he really has covered everything quite effectively.

I would like to point out that we are asking whether he can be unbiased, and he admitted that there were cases where he had voted along the lines of the legislation and had taken a position against a particular worker's case. He has already indicated that he has been unbiased in his decisions and that he has written decisions and taken part in cases where he has looked very effectively at the legislation.

When you talk about safety of workers as being a prime factor in appointing a vice-chair, and yet you do not want to appoint this particular person because he comes from an area where you see him as coming from a worker's side, I think that those two things are in a juxtaposition. I think that if we are looking at the safety of workers, as you say, Margaret, as the prime factor here, then the reason for not appointing him is not a good one to bring forward. I agree.

I would just like to disagree with Mr Silipo on one thing. I appreciated the letter from Mr Ellis. I think it is important that we receive some information from co-workers or from a superior officer. We should be looking at that and do take that into consideration. How much weight we apply to it is our decision, but at least the information is there for us, and I think that is an important bit of information, especially in the appointments of vice-chairs, who have to work closely with a chair.

The Chair: Thank you very much. We have used up the bulk of our time. Really, we only have about 12 minutes.

1050

Mr Perruzza: Can I just make a few comments?

The Chair: Sure, go ahead.

Mr Perruzza: I was not going to speak on this, but I guess some of the comments that were made by both the Liberals and the Conservatives seem to suggest that at this committee—and I hope it is not a precedent—we are going to be playing politics all over again.

I do not quite understand what the "other side" means. I guess that was central to the arguments that were presented by both the Liberals and Conservatives. If the "other side" means that we should be appointing or looking at someone for this position who is not going to be sensitive to injured workers, with a comprehensive understanding of what an injured worker and his or her family have to go through in order to receive some fair and equitable compensation for his or her injuries, I would offer a comment to both the Liberals and Conservatives that the compensation board structure is, in my view, the other side.

I think in these tribunals we should be looking at people who are sensitive to and understand the plight of injured workers, people who are subjected to a process that is, in many respects, inhuman. I offer these comments and these cautions to both the Liberals and Conservatives. I think that this particular person is someone who has demonstrated and offers a career background which seems to indicate that he is sensitive and understands injured workers and what they have to go through. Looking at some of the comments that were made by both Mr McGuinty and Mrs Marland, it would seem to suggest that they have not been injured in the workplace in recent times and have not had to go through a compensation process themselves, because otherwise they would clearly have seen that at the end of the tunnel, at the end of the day, they would have liked to have appeared before an individual who was sensitive to their case, sensitive to their cause.

The Chair: Thank you. The biggest part of this job now is keeping the time. We still have a bit of time left. The Liberals have used about nine minutes of the time, the Conservatives have a couple of minutes left and the government has a few minutes left as well. We have two other recommended appointees. We can use up the remaining time on the one individual, if you wish, or we can move on to the other two appointees.

Mrs Marland: Speaking for our caucus, we are supportive of the other two appointments and we do not have any comments to make.

Mr Grandmaître: I want to assure the members opposite that we are not trying to play politics. We are trying to resolve the WCB and the tribunal wing of the WCB. We want it to work, but I think it was very evident, too evident, that Mr McCombie may be a very competent person, but as your colleague pointed out, the transition from being a member to becoming a chair—personally I thought that it would be a difficult task for Mr McCombie to dissociate himself from the past.

I realize that a chair must be neutral at all times. We read in the newspapers every day that when a judge cannot be neutral or exposes himself to too many hard facts, he is criticized by the general public and his peers.

I want to assure the members on the opposite side of this issue that we are not playing politics. We are taking this very seriously. Personally, I think this is our very first case and what we are witnessing this morning will be repeated day after day. There will be block votes. The whip of the NDP committees was the first speaker to say, "We

will vote for it." So if this is an independent committee, I think it should be independent and that is the reason that I will be asking for a voice vote, so that everybody will know where everybody stands.

The Chair: You mean a recorded vote?

Mr Grandmaître: A recorded vote, I should say.

Mr Silipo: Mr Chair, just on a procedural point, could we just be clear? I think we might be getting ourselves into some problems. The time that we have is an hour in fact for all three appointees.

The Chair: We have 45 minutes and we will be finished at 11:02, if we stick right to that.

Mr Silipo: It is a bit unfortunate then that we did not parcel out the time accordingly, because I certainly have some comments I want to make on each of the other two appointees.

The Chair: You will still have time, if Ms Haslam is reasonably brief.

Ms Haslam: I am never too long, Mr Chairman. You know I will get right to the point and I am very brief and I have my very quick questions.

The Chair: Mr McGuinty did have the floor.

Mr McGuinty: Just very briefly, I am taken aback, candidly speaking, by Mr Perruzza's suggestion that this has been reduced to partisanship. That is not something that I feel has taken place here, certainly from my own personal perspective. He made reference to our position and I guess he suggested that it may be that we were concerned that Mr McCombie had represented workers in the past and somehow we are not sensitive to the plight of the workers. That is an unfair suggestion. I would be making the same comments or expressing these same reservations if, for the past 12 years, Mr McCombie had represented employers.

The other point I wanted to make is that the members supporting this appointment who have spoken have indicated their confidence in Mr McCombie's ability to make the transition from a partisan person involved in the process to one who is truly objective. He may very well be able to make that transition, but certainly one of the things we are concerned with here is perception. I know it is trite, but it has often been said that justice must not only be done but it must be seen to be done. I think we have an obligation to be sensitive to all persons who would be appearing before Mr McCombie, particularly employers, who would have difficulty adjusting to Mr McCombie's new role, given his 12 years' history representing workers.

The Chair: Mrs Marland, two minutes, and that will chew up all of your time.

Mrs Marland: I listened very carefully to Mr Silipo's comments and I think Mr Silipo's comments and Ms Halsam's comments really were reasoned and rational. I think it is very important that this committee does function as an independent committee, without partisan aspects. I did not hear from Mr Silipo or Ms Haslam any tone of partisanship, but I would suggest to Mr Perruzza that he read the rules for procedures in the House, which also follow in the committee. In one of those rules we are not allowed to assign motives to another member's opinion.

I would respectfully suggest, Mr Perruzza, that you read that rule and give all of us the respect that we deserve, which is not to assign motives to our opinions, because my opinion this morning was based purely on the fact—I am not going to repeat anything of what I said. If you wish to read Hansard, you will see that what you suggested I said, in fact, I did not say.

Mr Chairman, I feel that it would be unfortunate if the very first appointment that this committee deals with falls into partisan approaches only and I hope that that will not be the case.

1100

Ms Haslam: Just quickly, to Mr Grandmaître and Mr McGuinty, I would mention that whereas our Chairperson maybe said we had discussed it or we would look at it, I would also like to point out that Mrs Marland said "our caucus" would not be voting on this. So please, do not deliver non-partisan ideas on anybody. I think we are all trying to be very non-partisan and I appreciate that as a new member. I would like to keep it that way. I just want to say that I feel that Mr McCombie has illustrated in his comments that he is going to have an unbiased opinion and that he has brought that towards the cases he has been in already, so I think this is evidence that we can see him doing this job.

Mr Silipo: I am going to suggest in future that we divide out the time we have when we are dealing with more than one, because it has created a problem. I had wanted to make a few comments at more length than I am going to be able to about the other two appointees.

I want to just say first of all, with respect to Mr McCombie, that my position that we will support the appointment reflects discussion among the members of the NDP caucus who are here. It is not simply the traditional three-line whip that I know people are accustomed to seeing sometimes in these procedures.

I want to say on the other two appointments briefly that we will be supporting those. I want to add, however, that in my view—this is my particular view—that in both of those, and more strongly so with respect to Mr Eckert, there are some concerns that I have, particularly about his view of his role in the Planning and Implementation Commission which I would like us to pass on in whatever way is appropriate for that to be talked over with him. I would have preferred to see a stronger knowledge on his part about some of the things that he was going to be doing in his job. Also, quite frankly, I would have liked to have heard less about some of the policy areas, which in my view have very little, if anything, to do with the work of the Planning and Implementation Commission, on which he was quite willing and ready to provide us with his perspectives. I am not sure that he has thought through enough the process of whether those positions will impact his work on the commission. I think, in balance, I certainly can support that appointment.

With respect to Mr Brandt, again, I do not have anywhere near the same kind of hesitation in supporting that

appointment, but I do want to stress again that my decision, quite frankly, might have been different had we been in the position where we were looking at a number of people, potentially, for that job, as indeed for the other position. In that case he may not have been my first choice, but given the process that we have and given that our role is to review, I certainly feel quite comfortable, in fact more than comfortable, in supporting that appointment.

The Chair: We have really exhausted our time. I am going to give the Liberal Party an opportunity to make a brief comment about Mr Brandt's and Mr Eckert's appointments. One minute.

Mr Grandmaître: One minute? I will take five seconds. I will be personally voting for the next two appointees.

Mr McGuinty: I would just add one thing with respect to the process. I know Mr Eckert was one of the final six out of an original 35. It would have been interesting to know who the others were. With respect to Mr Brandt, a well-known figure, I understand a short list was prepared and proposed and delivered to the deputy minister and the Premier. It would have been interesting as well to know who else was on that list.

The Chair: Mrs Marland, you indicated your support for the final two appointees. I am going to treat them on an individual basis. We are going to have separate motions for each appointee. The wording of the motion is we will move that, we concur with the intended appointment or we do not concur. So I am looking for a motion in respect to Mr McCombie.

Mr Perruzza moves that the committee concur with the intended appointment of Mr McCombie as vice-chair of the Workers' Compensation Appeals Tribunal.

Mrs Marland: On a point of order, Mr Chair: Would it not be more appropriate for a member who actually was here during Mr McCombie's attendance to move? That is not a requirement?

Mr Perruzza: I was here.

The Chair: He was here in any event, but that is not relevant. Let's move on. We have the motion and we have a request from Mr Grandmaître that this be a recorded vote. We are all in understanding of the motion.

The committee divided on Mr Perruzza's motion, which was agreed to on the following vote:

Ayes–6

Cooper, Haslam, Lessard, Owens, Perruzza, Silipo.

Nays–4

Grandmaître, Marland, McGuinty, Murdoch, B.

The Chair: Can we do the others with simply a voice indication?

Clerk of the Committee: Sure.

The Chair: We have unanimous support for the appointments of Mr Brandt and Mr Eckert. The record will show that.

We are going to have a short break so we can stretch our legs and get a coffee, and then we will have Mr Warder as the next intended appointee who will be appearing before us.

The committee recessed at 1106.

1112

MAITLAND WARDER

The Chair: Mr Warder, would you like to come forward and have a chair? Welcome to the committee. Mr Warder, as your agenda indicates, is an intended appointee as a member of the Niagara Escarpment Commission. He was selected by the third party for review. We have up to an hour and a half. We do not have to use all that time, of course, but it is available to us to discuss this appointment with Mr Warder. Leading off the discussion is Mr Murdoch.

Mr B. Murdoch: Welcome to Toronto. My first question is, do you live under the Niagara Escarpment plan? Where do you live?

Mr Warder: Where I live, the front part of the farm is in the incorporated village of Lion's Head and the back 50 acres are in the Niagara Escarpment control area.

Mr B. Murdoch: In the past, have you sold, rented or leased under agreement any of your other properties to the Niagara Escarpment, the Ministry of Natural Resources, a conservation authority or the Ontario Heritage Foundation?

Mr Warder: No, we have not.

Mr B. Murdoch: You have not sold any of your farm properties to any ministry—

Mr Warder: You are talking about farm properties?

Mr B. Murdoch: Any land you have owned.

Mr Warder: Yes. We sold timberlands to the Ministry of Natural Resources 24 years ago.

Mr B. Murdoch: Are those lands under the Niagara Escarpment plan now?

Mr Warder: No. They are in Parks Canada.

Mr B. Murdoch: All right. With your experience, this will be an answer you can give me, about whether you feel local governments should have more control, or agencies set up by, say, the provincial government. Which way do you think things should go, whether the local people should have more say or boards?

Mr Warder: That is an answer that will have to have some qualification. We must remember that during the last 20 years we have been developing the land use ethic, and from what I have observed, local governments are not totally familiar with the land use process and the mechanics that are in place; I am talking about legislative support. It is my opinion that the local planning authorities have demonstrated that they tend, unless the property owner stops them, to extend their powers beyond that provided by statute. What I am saying is that I do not mind local planning authorities, which, of course, are represented by the municipal councils, having authority, provided that they earn it. Up to this point, I am not sure they have.

Mr B. Murdoch: So if you sat on the board of the Niagara Escarpment Commission, would you more intend to follow the program laid down by the planners of that

commission rather than, say, the local municipality's decisions?

Mr Warder: Well, I think they have separate mandates and separate territories.

Mr B. Murdoch: Not really. On the commission, there will be a report presented by the commission's own planners but there will also be a report commissioned by the local government. You will have to make the decision one way or the other. You will have to weigh your decision on whether you believe the planners of the commission or the decision of the local government, the municipality, wherever the decision has to be made. They both will present a case to you and they may differ from time to time.

Mr Warder: I am not certain it is an adversarial arrangement, as you suggest. The facts of the matter are that each may be a resource unit which may be consulted with, but to say it is one as opposed to the other—

Mr B. Murdoch: If that happens. I am saying that may happen from time to time. I just wonder which you feel obligated to, in your own opinion, which one you feel should be listened to maybe more than the other, the local one or the one from the commission?

Mr Warder: I do not think it would be prudent for me to say that I am going to support one or the other when I do not know what the substance is.

Mr B. Murdoch: No, but you have to know in your own mind that you feel that—

Mr Warder: You mean I have to be prejudiced?

Mr B. Murdoch: No. You have to know, though, whether you think the local people should have more say than, say, a commission which is not made up of all local people. I just want your own philosophy on that. You must have one way or the other.

Mr Warder: The Niagara Escarpment Commission members represent a group of people who are concerned about a geographic area of territory that stretches from Niagara Falls to Tobermory.

Mr B. Murdoch: Right. They are not made up of all local people. I realize that.

Mr Warder: They are local people.

Mr B. Murdoch: Not all the commission. The commission is made up of 17 people, and they are from, as you said, Tobermory to Niagara Falls. So when there is a case presented for a development of some sort, the commission's planners will have a position for you to look at; also, there will be a position presented you by the local municipality which the development or whatever it may be is being held in.

So you will have to make a decision. I just wondered if, in your own mind—maybe you do not have one one, way or the other. I am just asking if you feel that the local municipalities maybe should be listened to a little more than, say, the commission's report. If you do not have one, that is fine, but I am just asking whether you do or do not.

Mr Warder: I think what you have to be asking me is whether I think local municipalities have earned the right to my blanket support, and they have not.

Mr B. Murdoch: That is fine. That is what I wanted to know. That answers the question.

Are you a member of the Coalition on the Niagara Escarpment or the Bruce Trail Association yourself, or do you belong to any agencies that do belong to them?

Mr Warder: I have not paid any memberships to either, yet I do receive the Bruce Trail News.

Mr B. Murdoch: I am going to ask you some questions about the Niagara Escarpment plan. Do you know the difference between the natural and the protective and the rural areas?

Mr Warder: I do not have lucid definitions.

Mr B. Murdoch: So you are not totally familiar with those three terms.

Mr Warder: No, I have not been associated with this particular thing in recent time.

Mr B. Murdoch: How would you describe yourself? Are you an environmentalist or a preservationist?

Mr Warder: I like to think I am a conservationist.

Mr B. Murdoch: I guess my definition of a conservationist would be someone who makes wise uses of our natural resources. Would that be the same philosophy as yours?

Mr Warder: I would not dispute that.

1120

Mr B. Murdoch: That is fine. That is what I say a conservationist is.

Do you sometimes think that in some cases the plan is overprotective? If you are not too familiar with the three areas, you will not be able to answer this. I was going to say that sometimes the plan may be too protective, and would you be more inclined to use common sense rather than—would you be prepared to rule against some decisions if you felt they did not make a lot of sense?

Mr Warder: Any matter has to be considered on its merits. I do not have your definition of common sense yet.

Mr B. Murdoch: Well, I would take your own common sense.

Ms Haslam: It is Margaret Marland.

Mr Silipo: We only wish.

Mr B. Murdoch: They are picking on you, Margaret. Do you want to ask some questions?

Ms Haslam: Take it, Margaret.

Mr B. Murdoch: Margaret, they must want you in here.

Mrs Marland: I will wait until he is finished.

Mr B. Murdoch: I was going to ask some more questions about the plan, but if you are not that familiar with it, it will not be fair to ask those questions.

Mr Warder: Well, I wrote the family corporation submission on the proposed plan, and not a great deal of it has changed. I do have concern about your expecting me at this particular time to commit myself to certain details which are, first, out of context and not relevant to a particular piece of property.

Mr B. Murdoch: I was not really asking you to get into that. I mean more or less your philosophy on different things. That is all I really wanted. But that is fine; you have basically said some of the things you agree and do not agree with in your philosophy.

Now that the plan is in its five-year review and it has been ordered by the province to do this, again, you can give us a broad range of what you think. Do you think the plan now is too protective, maybe should be less protective, or whether the plan maybe should be turned over to the local municipalities?

Mr Warder: I do not need any second thoughts on that one. As far as I am concerned, if we are weak about the plan and we tend to allow it to be diluted, then it will become non-existent eventually. As far as I am concerned, the legislation requires a five-year review. I think it is most unfortunate that similar conditions are not imposed on the local planning authorities.

Mr B. Murdoch: They do have that provision in there—I think it is a 10-year review—but sometimes it does not get done. But the five-year, on this one anyway, right now is in process.

One more question: As you will probably know, the plan sometimes finishes on a road, so on one side of the road you are in the Niagara Escarpment plan or under its jurisdiction, and on the other side of the road you are under the local plan. Some people feel that if you are within the plan, you are rated like a second-class citizen, because your rules are different from someone on the other side but the land is basically the same; there is no difference between the contour of the land or whether there are stones or whatever. Do you think that is fair for people or not?

Mr Warder: Of course if what you say is true, it is not fair, but the fact of the matter is that is not the way it is. For instance, more than half of my farm is under Niagara Escarpment control and we have on occasion asked for all our property to be under Niagara Escarpment control.

Mr B. Murdoch: You have asked that?

Mr Warder: We have asked, yes.

Mr B. Murdoch: Okay. As soon as Margaret gets some water, we will let her ask some questions. Get Mr Warder some maybe.

Mr Warder: Thank you. I needed that.

Mrs Marland: Thank you. I think—

Mr Warder: Madam, if I might interrupt for a minute, I had not finished what I started out on. There were certain organizations, and to be specific about it I mention the Niagara Escarpment Northern Ratepayers Association, which thought the province of Ontario should pay to the property owners along the escarpment a quarter of a billion dollars for loss of property values because of the imposition of the Niagara Escarpment plan. You recall that yourself, do you not?

The fact of the matter is, of course, that where property values are the most stable now and where people are most busy is north of Highway 21, most of which is in Niagara Escarpment territory, and of course as the Supreme Court of Ontario ruled in the matter, the impact of the Niagara Escarpment plan on property in the development control area is impacted on the same as the local planning authorities do when they rezone property. We have had this happen ourselves. Get property rezoned and it may go down in price or it may go up in price. The same thing may apply for the application of the Niagara Escarpment plan.

Mr B. Murdoch: So you believe in the concept of buying as much of the Niagara Escarpment area that is under the plan as possible through the Ontario heritage fund. Do you think that is a good idea?

Mr Warder: They have, and fortunately by having both willing buyers and willing sellers they have acquired a great deal of vital land and also they have not impinged on me and my farming operation or anything else.

Mr B. Murdoch: You think that is a good idea then, to buy the land.

Mr Warder: Well, of course, yes.

Mr B. Murdoch: That is fine. I just wanted to know what you thought of that.

Mrs Marland: Mr Warder, what is a definition of "vital land" in that last answer you gave?

Mr Warder: Vital land?

Mrs Marland: Yes.

Mr Warder: I am talking about land that is vital, that needs the additional protection of the Niagara Escarpment plan.

Mrs Marland: But what would you describe as vital? What is your description of vital land?

Mr Warder: Something that Warders own.

Mrs Marland: Some what?

Mr Warder: Some that the Warder family own. There is a large piece of escarpment covered with soil within the village of Lion's Head with a gradient of 45 degrees, and the village of Lion's Head—this would be interesting to you, Mr. Murdoch—consulted with the Niagara Escarpment Commission as to whether or not it was extremely hazardous. It was and we as a family have agreed to have been rezoned so that this vital land form is not threatened.

Mrs Marland: So vital land would be any property adjacent to the escarpment to protect against erosion of the escarpment? I am not talking about the Warder land; I am just talking in generalities.

Mr Warder: Yes. Now when you talk about the escarpment, are you talking about the cliff face or are you talking about the whole land form?

Mr B. Murdoch: I think that is what you mean. Is that the vital land?

Mrs Marland: I am trying to establish what the vital land is. Is the vital land what is needed to protect the escarpment, or does vital land go on for ever in geographic relation? When is it vital? Is it vital because the land is at 45 degrees? I am just wondering how broad the protection has to become; that is all. It was really a philosophical question as to what is vital land. I am not asking about your property.

Mr Warder: My opinion is that it is a one-way street. If we decide that we are going to give way here and that we are

going to take some of this, and we are going to divide the land away and we are going to put high-rises on it and so on and so forth, we may some day regret it. As far as I am concerned, the area that is under development controls is lean enough already.

1130

Mrs Marland: Just a further question to the point that Mr Murdoch was getting at at the beginning: Earlier this morning we were discussing another candidate for another position and what I was personally trying to establish was that whenever people are appointed to these government agencies, boards and commissions, in my opinion the best appointees are people who can look at a total responsibility of two sides of every issue and then make a decision.

I think when Mr Murdoch was asking you whether you would take the local municipality's viewpoint or the escarpment commission's, the NEC's viewpoint—I want to be clear—I think your answer was that you are not going into the NEC with a preconception of any viewpoint, that you are going to look at the matter before you and make a decision based on the information that is before you, and the implications to the municipality, to the property owners and to the NEC. Is that a fair understanding of what your answer meant?

Mr Warder: I think the Niagara Escarpment Commission indulges in a great deal of site planning. I am a supporter of site planning, which means that each application is considered on its own merits. In the local planning authorities, that zone, of course you are extended certain privileges, but you are also extended certain barriers by zoning.

Mrs Marland: Let me ask you another way then. Would you have a blind faith in the NEC where you would disregard—if there were three parties to a decision, which would probably be the individual land owner, the municipality and the NEC, how would you approach making a decision with a triparty interest?

Mr Warder: You have not said which of the three parties has the mandate. Is the NEC being consulted or asked to comment for a local planning authority that has the mandate? You have not explained this to me.

Mrs Marland: What do you mean by the mandate? Do you mean the application?

Mr Warder: No. The NEC has a mandate and the planning board has a mandate under the Planning Act. In this particular case, of course, the two have provincial statutory mandates and the role may change with each piece of property; so you are asking me to give a blanket answer to something that has to be looked at in detail.

Mrs Marland: I think what I am asking you is, recognizing the individual jurisdictions under existing provincial statutes, if you are associated with one jurisdiction, would you be looking at it only from that perspective?

Mr Warder: That is what I am required to do. If I am on the planning board, I look at it from their perspective. If I am on the Niagara Escarpment Commission, I look at it from their perspective. If the commission is asked for an opinion, you give a candid opinion. If the local planning authorities are consulted with by the Niagara Escarpment Commission, they would conduct themselves likewise, I would think.

Mr B. Murdoch: Margaret, I was just going to jump in. When an application is made at the Niagara Escarpment Commission, there are different agencies commenting on it, and I think this is what Margaret means. We can use severance or a building permit or a development permit which is applied for at the Niagara Escarpment. They do allow all the other agencies to comment on it. I think that is what we are asking. Would you give due regard to their comments? The municipality has a chance to comment on that, the Ministry of Agriculture and Food would comment on that and so would the commission. They would just comment on it, as to the way they see it. What I mean by the commission is the staff of the commission. So you are sitting as a commissioner. You have to decide in the end how to do that. That is your decision. I think all we are asking is, are you open to everyone's opinion or are you closed to just the opinion of the Niagara Escarpment staff?

Mr Warder: I suppose this brings up the matter of the definition of responsible government. I have always followed the philosophy that I make the decision and express the opinion that I consider to be appropriate, and I take responsibility for it on election day.

Mr B. Murdoch: So you would give everyone their due regard then?

Mr Warder: You have only covered half the area. You have not mentioned that the local planning authorities will be asking the Niagara Escarpment for opinions and the Niagara Escarpment will be asking the local planning authorities too.

Mr B. Murdoch: Not lately. The Niagara Escarpment only comments within its own area. They do not comment on areas out of their jurisdiction, but within their jurisdiction, within the plan, the other agencies do comment.

Mr Warder: I think you have to be living in the wrong county, because in Bruce county where I live, I have recently, in an application to the planning board, received a comment, so there is the liaison in Bruce county.

Mr B. Murdoch: Sometimes, yes, there is a difference. They vary from county to county. You are right. I think we are talking about within the Niagara Escarpment Commission, within its planned area, and that is the one we are concerned with because that is where you are going to make the decisions.

Mr Warder: That is right.

Mr B. Murdoch: When they have a hearing, the other agencies and the applicant also have a chance to come before the board to state their case. What we need is people on the board who will listen to all sides of the story and make the decision, because you have that right to do that as a commissioner. You do not have to decide the way the planning staff of the commission bring their report in. You have the right to decide the way you feel it should go.

Mr Warder: Are you implying that I should make decisions without all the information being in?

Mr B. Murdoch: No. That is what I am asking, if you make the decision after you have heard everyone and you give everyone due regard in the process.

Mr Warder: Yes, and I will live with it.

Mr B. Murdoch: Yes, that is right, but you would give everyone their chance?

Mr Warder: Yes.

Mr B. Murdoch: That is what I am saying. In the past it has been stated that some commissioners only listened to the report from the Niagara Escarpment Commission staff. What we are looking for is people who will sit down, and when you have the hearing, the same as you are having right here, you have all the different agencies plus the applicant plus the local government make a submission to you as the member, along with the commission's report—that is from its staff—and then you have to make the decision whether it should be allowed or not. That is all we are asking, if you would listen to everyone.

Mr Warder: Yes. I cannot give you any comfort right now with regard to whether or not I am going to show any favouritism to local planning.

Mr B. Murdoch: I do not ask for that. All I am asking is that you listen to them and give them their regard. That is all I am asking for. It does not have to be the local: It has to be the Ministry of Agriculture and Food, it has to be the Ministry of Natural Resources, it has to be the applicant, the person who is applying for it.

Mr Warder: You merely want to ensure that I will proceed without prejudice.

Mr B. Murdoch: That is right.

Mr Warder: No problem.

Mr B. Murdoch: That is all we want, but it took a long time to get that out.

The Chair: Is that it, Mr Murdoch? Are you finished?

Mr B. Murdoch: I understand the process and you are trying to figure it out also, so that is fine.

1140

Mr Owens: I probably will be a little bit easier to deal with and probably a little bit more direct. In reviewing your curriculum vitae two things come to my mind. One is public service and one is your involvement around issues of preservation with respect to land and historical artefacts. I am wondering if you could let the committee know how your experiences you have listed in your CV will help you discharge your role as a member of the Niagara Escarpment Commission to the best of your abilities, as well as within the mandate set up for the NEC.

Mr Warder: I guess I should say at the outset that I consider myself lucky to have been born in 1920, to have been brought up and taught how to use the cross-cut and so on, the pipe pole and the cant-hook, and having learned to follow the walking plow with the horses and so on and so forth. Those things have taught me that adversity does have some benefits. In retrospect, and I am being philosophical here, it has been a privilege to have been poor. I think this is perhaps one of the areas in which my children may be shortchanged because life is vastly different now.

The area around Lion's Head was seen by Mississippi state to be an ideal place for outdoor studies and in 1928 the escarpment at Lion's Head was featured in the American National Geographic Magazine.

As time went on, and as my résumé indicates, I finished school in 1935 and in the immediate war years more attention was being paid to conservation. During the days that Fletcher Thomas was Minister of Agriculture here, an all-party committee was set up at Queen's Park called the select committee on conservation. It was headed by a member of the Co-operative Commonwealth Federation party. This was a process I could observe and evaluate.

Then in the 1960s the universities started to send their outdoor education classes to the Bruce Peninsula, because a lot of the history of the planet was exposed there and Dr Kruger and Professor Officer and Dr Helen Abel and so on would bring the classes to the Bruce Peninsula and I was invited to go and talk to them about the changing economies of the peninsula from when it was settled in the 1870s.

This eventually led of course to the suggestion being made from the universities that we have an outdoor education site, a residential school, in the Bruce Peninsula. This happened to come to the fore about the time that the new county school boards were being launched. That prompted me to stand as a candidate and today Bruce county has not only one of the best outdoor education sites in Canada, but in the world, and getting better all the time.

I think the experiences I have had in this matter of getting our young people to be more aware through the school system about man's role on this planet—it is a role of course that does not stack up very good in comparison with the other species. Man's aggresiveness of course has not always been for the good. Is that the sort of thing you wanted to hear?

Mr Owens: Keep going. I have a personal connection to the Bruce Trail. My wife and I met there on a blind date and went off to, so far, nine years of happy marriage, so I look forward to returning to that trail on a yearly basis rather than visiting Bill's Burger Bar at the base of the Bruce Peninsula.

Mr Grandmaître: Thank you for a great history lesson. When I was responsible for the Niagara Escarpment plan, I will tell you, if I would have had a deputy minister like you, I do not think we would have had too many problems. You know the background of the NEC very, very well.

Let's go back to 1985, when the government was serious about balancing the commission. As Bill pointed out, nine members are publicly appointed, if I can use the words "publicly appointed," and eight are appointed from within the 27 municipalities—or is it 29 municipalities?—that are part of the Niagara Escarpment.

Mr Warder: I cannot verify that for you.

Mr Grandmaître: And four regions? You should know them, Bill. You used to argue with me daily on the Niagara Escarpment.

Mr B. Murdoch: Not that many. They go by the counties.

Mr Grandmaître: Anyway, I would like to talk about the balance. What do you think of the balance at the present time on the commission? Are there more pro-developers or more pro-environmentalists? What are your thoughts on the actual composition there?

Mr Warder: I think it is a bit precarious. I must be frank and say that the future of the preservation of the escarpment would not be very secure if it were otherwise, if we found that there was a preponderance of people who had development plans and so on. Do you follow me?

Mr Grandmaître: Yes, I follow you. I just want to point out that there are 27 different official plans in the Niagara Escarpment.

Mr Warder: Right.

Mr Grandmaître: There are 27 official plans and not 27 municipalities. I am sorry. Go ahead.

Mr B. Murdoch: He answered your question.

Mr Grandmaître: Oh, okay. You should not be talking to me, Bill. Back in the days of Bill Davis, when he was Premier of this province, his dream was that one day all of these official plans which are supposed to be incorporated in the NEC plan would be turned over to the individual municipalities. Do you think that is a dream or could it actually happen within the next, let's say, 10 years? I know 10 years is a very, very short time, but do you think that this is a dream, or will it actually happen?

Mr Warder: It could happen.

Mr Grandmaître: What would be needed in order to accomplish or achieve this?

Mr Warder: I mentioned early on about the development of the land use ethic and the time it takes the local municipalities to be conversant, and the unfortunate thing is that the municipal councils are responsible for planning under the new Planning Act. My particular experience and that of my family, the Family Corp, is that local authorities tend to extend their own powers without legislative support. This has cost us a fair amount of money, because the only way you get that stopped is to fight an appeal and go before the Ontario Municipal Board and then, if you are not successful, plan a rehearing and pursue it. In all our cases we were successful, but not without cost.

I think there is a deficiency in the local planning authorities that they have not defined their roles. This means reading and gaining an understanding of how the powers are handed down from the federal to the provincial and to the local municipalities. There are a lot of blanks in there. That is why I suggested to Mr Murdoch that I thought the local planning authorities needed a study. I mean a self-examination of their performance and what they are trying to do.

1150

Mr Grandmaître: Do you think it was a wise move when the NEC responsibilities were transferred from Municipal Affairs to the Ministry of the Environment? Was this a good move?

Mr Warder: I thought it was a good move. I have discussed it with other members of my family and also friends in the community and so on and people in good standing. I have not had a negative response from anyone. They think it is a move in the right direction, and I agree. Time will prove whether or not that opinion is accurate.

Mr Grandmaître: I know that the transfer happened very recently, June of last year, if I am not mistaken. I have always been concerned about the, let's call it, politics that have been played between the provincial government and the individual municipalities. I can remember having to meet with maybe 10 mayors on one day, trying to satisfy them that the NEC was there to protect the area. It is very difficult to satisfy 10 or 12 or 17 mayors. I realize this.

What I am trying to get at is—and I know it may sound very unfair of me, because your answer could be: "Look, you were the minister responsible for the NEC. Why the hell didn't you do it when you were minister?" But I think back in the early 1970s, when the dream was to protect the area, I do not know how many square miles of space—do you think that we should take a second look? Instead of reviewing the NEC every five years, do you think we should look at the total area and possibly break it up and give back that responsibility to municipalities or regions? There are four regional governments that are involved in the area. Do you think it should be chopped up and given back to the regions? Do you think this is a wise move?

Mr Warder: It does not turn me on. I have to say that I did serve on municipal council. I made the decision many years ago that I would serve on municipal council before I became involved in education. This was because certain responsibilities are bestowed by statute on the local municipal councils to collect revenues for the conservation authorities, the school boards and so on and so forth. I was not inspired by my experience in local municipal government. I think it has improved, but there is a lot more to do. During the time that I was on, the municipal council talked about not only some of their own business but everybody else's and the advice was free and all the rest of it.

But I think in many ways local government has defaulted in several areas. They used to have the administration of justice; they used to have the assessing system; they used to be responsible for any payment that was made in support of dental and several others that I cannot recall at the moment. They have had shrinking responsibilities, in spite of the fact that other public authorities have had increased responsibilities. I am inclined to feel that there is going to have to be a great deal of reform done in attitude and in philosophy and so on, before it is broken up into 27 pieces.

I want to say in addition to this that the Niagara Escarpment Commission has not run roughshod over the official plans of the municipalities.

Mr Grandmaître: If you were to be appointed on the commission, would you go so far as to recommend or move a motion that these plans should be turned over to the respective regional level? Would you be willing to make such a move?

Mr Warder: I give you the same answer as I gave to Mr Murdoch. That would be premature.

Mr Grandmaître: But it sounds good, though, eh? No, I would not want to influence you, but personally I

think it is a good move and I agree with you that most of these municipalities have not been responsible in the past.

Mr Warder: That does not mean they cannot be.

Mr Grandmaître: Oh yes, absolutely.

Mr Warder: It is to everybody's advantage that they carry out reform.

Mr Grandmaître: Yes. I think the commission has been placed too often in a very precarious position. Maybe there are too many politicians on the commission. What do you think of that?

Mr Warder: I have thought about that and—

Mrs Marland: How many are there?

Mr Warder: I do not know.

Mr Grandmaître: Eight politicians and nine reasonable people.

Mr Perruzza: Could I have a clarification? Does he mean current politicians or ex-politicians?

Mr Grandmaître: No, current.

Mr Perruzza: Current? People who hold elected office today?

Mr Grandmaître: Yes, councillors. So do you think we have too many politicians?

Mr Warder: No. I was in the planning board office and I was expressing my support for site planning to one of the planners and he said, "Well, it's all right, but it's more costly." And I said: "Well, if we make application for a permit here, we have to put a certain amount of money back just to have our case considered. With the commission that doesn't happen. We're not required to pay fairly substantial sums of money."

His response was, "I know, but in certain municipalities the fees are excessive. But the Niagara Escarpment Commission is becoming politicized."

Now that is the way he put it. I asked my solicitor about it and he agreed. I also asked him about whether or not I should be a candidate here for a position on the commission and he said I should because it would mean that the political aspect would be diluted. So you may read from this that I have no political loyalties.

Mr Lessard: You have a good lawyer, though.

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Mr McClelland: Very briefly, I wanted to raise one issue. There could be many more. One of the concerns that has been brought to my attention by a number of people is in fact a little bit unusual, I suppose, in the context of what we are discussing, and that is from time to time the lack of decisiveness by the commission. I can give you, without naming any specific cases, a number of scenarios that have been brought to my attention wherein the commission will write a report with no objection per se but an open-ended decision that effectively says, "We have no objection but nor will we approve the issue on the table," the result being that ultimately it ends up going to cabinet and the decision is made some three or four years down the road.

The question that I want to put very directly is your response to that in terms of the role of the commission to be decisive and to live with the decision. You already alluded to it in terms of your political career. I just wondered if you would like to comment on that, perhaps reaffirm it in some respect.

Mr Warder: Our experience has been—I am speaking as a family and a corporation of which for some years I was president—I spent a great deal of time before hearings and the Ontario Municipal Board and so on, struggling against decisions that had been imposed by the local planning authorities. The local planning authority had imposed costs just to have my application considered. They are not saying, "Pay him so much money and it'll get approval." They are saying: "Pay him so much money and we'll tell you what we think of it. If we say no, it will still cost you money."

Any application that we have made to the Niagara Escarpment Commission has had a hearing within, I believe, about 30 days. We know where we stand. From my own experience, the commission's procedures are more lucid and faster.

Mr McClelland: The other question that you alluded to was that you have an interest. You have land obviously there. There is a possibility that you may end up selling that land through the vehicle of the heritage fund to the commission.

Mr Warder: That I have land now to sell?

Mr McClelland: Yes.

Mr Warder: No.

Mr McClelland: Okay, fine. Thank you.

Mr Warder: In fact, the only land I have, the farm I live on and farm, the director of the Veterans' Land Act has titled away. It is not a mortgage; it is title to it.

Mr McClelland: Okay, thank you. I just wanted to clarify that point because I had misinterpreted one of your comments.

Mr McGuinty: Mr Warder, I am newly elected and furthermore I am from Ottawa, so I do not know much about the Niagara Escarpment Commission.

Mr Warder: You should.

Mr McGuinty: But what I have heard tells me that it is an ongoing source of some controversy. You indicated you were born in 1920, so you are either 69 or 70 years of age. You have led a full life. You have had a family. You have farmed. You have served your community. Why is it you want to become involved in this?

Mr Warder: Right now?

Mr McGuinty: Yes.

Mr Warder: Well, for the reasons I gave earlier. I think that as an independent person, a person who has lived on the Niagara Escarpment all his life, a person who has become conscious of the fact that we humans are going to have to show more concern about the world we live in and do more about it—and here in Ontario we have a land form that is not just important to Ontario, but it is one of the cardinal landscapes of North America.

I had decided some years ago that I would terminate my political career and live in a village called Lions Head that is so much like Camelot, a good place for happy-ever-aftering

and so on. However, when this came up and the obvious strengths and weaknesses were pointed out to me, I decided that I should return and give something of myself once more.

Mr McGuinty: I am surmising from the answers you have given today that if we had to categorize you, as I am sure the other members sitting on the commission now are categorized, as having either environmentalist leanings or development leanings, it would be fair to say you have environmentalist leanings.

Mr Warder: I accept that title with some reservation. As a farmer, I recognize that agriculture has unfavourable impacts on our environment in so many ways. Over the years, we farmers have got to make some revisions and so on in order to contribute in our own way to a healthier planet. But so many of the things that are put forth that are espoused by people who call themselves environmentalists are not very practical. Some public bodies, including this one, will have to take facts to the drawing-boards and eventually come up with solutions.

If I mentioned some of the things in agriculture that impact unfavourably on the environment—I think about beef cattle because I am a beef cattle farmer—I think about the spreading of commercial fertilizer and the use of pesticides and so on. The immediate withdrawal of any of the items that contribute to food production will increase the number of people who die from starvation. Fertilizer, in particular, if it were withdrawn from use, food production in North America would go down about 60% and there would be mass genocide throughout the world.

Nevertheless, that does not say we do not have a responsibility to come to grips with it. None of these things—you mentioned the unpopularity of the Niagara Escarpment Commission and so on—will be done without offending people. I believe that down the road, what the Ontario government began with this legislation in 1973, this program one day will be as popular as the National Capital Commission, which is a similar thing, and also the Niagara Parks Commission, which has been in existence now for over 100 years.

Mr McGuinty: I take it from your answer that you see yourself as having some environmentalist leanings, but you express reservations about that label.

Mr Warder: Everyone who speaks as an environmentalist is being useful. We know that many of these things are supported by good ideals. We do not like to see people dying and suffering and so on. We have to get busy and find ways.

Mr McGuinty: Maybe I could put it this way. How will others who come before the commission see you? You will acquire a track record at some point, and then people who appear before the commission will, as you know, label members one way or the other. How do you think you will be labelled?

Mr Warder: My position so far with regards to the Niagara Escarpment hearings and my public statements and speeches which I make to local groups and so on indicate that I am not a man that has to be loved. I say a lot of unpopular things.

The Chair: I guess that concludes the process, Mr Warder. I want to thank you for appearing before the committee. You will be advised later this week as to the decision of the committee in respect to our views on your appointment. Thank you once again.

That does it for now. We will break for lunch and reconvene at 2 pm.

The committee recessed at 1212.

The committee resumed at 1406 in committee room 1.

GRETA McGILLIVRAY

The Chair: Our first and only witness and intended appointment appearing before us today is Greta McGillivray. Mrs McGillivray, would you come forward, please, and have a seat. Welcome to the committee. If you wish, you can make a few brief opening comments; if not we will get directly into questions.

Mrs McGillivray: I would like to say that I feel very privileged. It is an honour to be selected to come before you today and particularly in the light of working with the environment. That is one of my primary concerns in life today, being a grandmother and a mother and being very concerned about the condition that we have got ourselves into; so finding myself in this position is certainly an honour and a privilege. Thank you.

The Chair: Thank you. We will begin the discussion with Mr Murdoch.

Mr B. Murdoch: Again, I guess the first thing I will ask is, do you live in the escarpment area?

Mrs McGillivray: No, I live in the town of Collingwood.

Mr B. Murdoch: Okay. So you do not have any land that is directly affected by the plan.

Mrs McGillivray: No.

Mr B. Murdoch: Okay. I want to ask you about the plan then. Do you understand the three major areas in the plan, the natural, the protected and the rural areas?

Mrs McGillivray: Yes. As you mention them, yes, I do understand that.

Mr B. Murdoch: But you know what each one sort of stands for and that there are different regulations on each of the three areas?

Mrs McGillivray: Yes.

Mr B. Murdoch: So you do know them. Would you care to comment whether each of those areas is too restrictive or should be more restrictive, or are there ways we could change the plan to, say, help it be more acceptable to the local people who live on it? I mean now, example, the three are the natural, which is the real meat of the plan, and then there is the protected and the rural. I guess just to go on further, the natural, as you know, is basically the rock face or swamps and the sort of areas that go along with the rock face. Then the protected is to sort of protect that area. Then we have this one called the rural which probably is the most contentious, in our area up our way anyway. Do you feel maybe the control on it should be lessened or even done away with? Do you have a feeling on that? Can you just sort of give me maybe your philosophy on those three areas?

Mrs McGillivray: Well, my philosophy is that we are currently going through a very important sort of transition in our way of looking at the world and our whole biosphere and our bioregions and that is, we are moving from a human-centred sense of reality and value to an earth-centred sense of reality and value and somehow or other we humans have to find ourselves within the integral life systems. So if we are talking about environment and we recognize the fact that we are killing off about 50 species of life a day, species being one-time events, we are indeed killing the very life systems upon which we depend. So I would have to say that I would be pro sustaining any kind of development that would be occurring because all the other life species are as important as I am at this particular stage of our evolution.

Mr B. Murdoch: Okay. That is a philosophy of an overall look at the world, which I can accept is your philosophy.

Mrs McGillivray: No, it is a philosophy that comes from my grass roots and from my involvement within my community.

Mr B. Murdoch: But I guess I take from that answer that you like the status quo of the plan or even more restrictive.

Mrs McGillivray: No, you cannot take that—

Mr B. Murdoch: Okay.

Mrs McGillivray: —because I would view each case individually and there would be things one would have to take into consideration, such as the hydrological and geological facets of any particular proposal.

Mr B. Murdoch: We will get into those in a minute.

To get back to my original question, and you may not be able to answer it, I used the example of the rural area as the most contentious area of the whole plan, as I see it. It is my experience with it. What I am saying is, you use your whole philosophy plan about killing off species, and I fail to see how that reflects on what happened on the plan. I do not know of many species that have been killed off in that area. Now, there could be some.

I do not know, by saving the rural area of the plan—you see, the plan is to protect the natural part of the Niagara Escarpment from Niagara Falls to Tobermory. I do not find many people wanting to do anything with the natural part of it, the natural area. That is fairly well looked after. We have an area to protect that. But then we go beyond that for some reason, and I fail to see why, with this rural area. That is where I just want to find out if you think that that rural area could be expanded or deleted?

Mrs McGillivray: It is my understanding, and correct me if I am wrong, that there have been some 1,400 applications for development, and that about 90% of these have been passed by the Niagara Escarpment Commission—

Mr B. Murdoch: I would not know the statistics.

Mrs McGillivray: —which would allow me to think that the commission takes into consideration very seriously whatever kind of development is going on.

Mr B. Murdoch: Unfortunately, a lot of those development permits are for a roof or a pond or something like that. A lot of them are minor things.

Mrs McGillivray: Obviously 90% are passed, so there cannot be too much disagreement.

Mr B. Murdoch: Those are statistics, if we want to get into them. I did not bring them with me and maybe I should have. We could have gotten into that. A lot of them do not mean anything. I almost think you could take half of them away, but the bottom line is the 10% we are having the problem with and the local people have a problem with, or some of the local people have a problem with.

I can see you do not really want to answer that with a yes or a no.

Mrs McGillivray: I cannot answer it until I see the particular case we are dealing with.

Mr B. Murdoch: Okay, that is fine.

The reason I am asking that is because we are in a five-year review right now. If you become a commissioner, you are going to be very instrumental in whether or not that area is reduced, and whether that area is reduced or not is going to become very instrumental in whether the people in the local municipalities, where I am from, anyway, accept it.

If we are going to go on in the adversarial way that has been happening for the last five years or longer with the Niagara Escarpment, we are not getting anywhere on that. We are spending a lot of taxpayers' money between local governments fighting with the Niagara Escarpment Commission. That is just wasted energy that could be used other ways, maybe looking after your global project.

Unless changes are brought to the plan, we are going to continue that way. I can easily see that. That is why I was asking that question, because if you really know the areas, then you could probably easily comment on a rural area because it is very distinct. If we had the maps here, I could show you.

I can understand that, not being a commissioner yet, you do not have the answer for that rural area, but I think that is one place, if you are selected to the committee, that you should look at if you want to solve some of the problems.

I will not make you go on.

Mrs McGillivray: I certainly would not pretend to have all the answers. I think we have to learn to discover those as we proceed.

Mr B. Murdoch: But you are going to get into the fray as soon as you are on the commission. In some areas, it is not a nice fray to be into.

Mrs McGillivray: I will enjoy the challenge.

Mr B. Murdoch: Okay.

As you said, you will look at everything and I can ask the same question of Mr Waters. Do you believe in the local autonomy at all? Are you going to give each agency that comments on a development or whatever the same priority as you will the commission's report because you have the right to do that? Even though the commission's report says that this should not be granted, you as a commissioner can overrule that report if in your mind enough other agencies say that it should be. Will you be fair to every agency, and the one I am really interested in is the local municipality—

Mrs McGillivray: I was born on a farm and grew up on a farm in the Niagara Escarpment, so I have some feel for rural farmers and people. In fact, that is a very big part of my life. I really respect farmers and people in the rural areas so I think you can feel assured that I will give them my concern and consideration.

Mr B. Murdoch: The reason I bring that up is that this has been a complaint to my office in the past and right now up to the present day, that the commissioners seem to be blindsided by their own staff and they just go by staff reports which will go by the plan. But you have that authority to overrule them and listen, say, to some of the other people.

Mrs McGillivray: I think you will find I am an independent person. I am what I call a marginal type of person. Unless I can look my politicians straight in the eye and hold them accountable, I am not just too sure which way I will vote.

Mr B. Murdoch: That is fair.

I am not about to ask you—I have no problem and it does not bother me—about party affiliations or anything like that; that is neither here nor there. But the one thing I would like to know is if you are a member of the Coalition on the Niagara Escarpment or the Bruce Trail Association.

Mrs McGillivray: No, I am not a member of CONE, but I work with an environmental group and we are very involved with conservation and ecology. We are patrons of the Bruce Trail Association.

Mr B. Murdoch: But your group, which is a seniors league, does not belong to CONE?

Mrs McGillivray: Yes, the senior league does belong to CONE. I personally do not belong.

Mr B. Murdoch: No. It is the different agencies that make up CONE that belong to it, so you do belong to the senior league and it does belong to CONE. I just wanted to make sure that was put in there.

I was looking at some of the other things here. I would like you to explain to me in your own words whether you feel you are an environmentalist, a conservationist or a preservationist. Where would you be in those three?

Mrs McGillivray: I guess here again I am going to be a little bit difficult.

Ms Haslam: Or a grandmother.

Mr B. Murdoch: Or a grandmother.

Mrs McGillivray: I have been called Mother Earth by the mayor in our town.

I would have to go a little step further, I think, because an environmentalist is often concerned as a person who is sort of interested in that stuff; ie, his surroundings. But I have what I call a deeper commitment to things and that has to with the ecology and that has to do with the whole spectrum, in the sense that we have in our genes, and it is in our program, that the natural depth of each one of us, and that includes you too, sir, is the whole of creation.

It is our high privilege to reflect the whole of creation back to itself. If we think about that, we have not been doing a very good job of that.

Mr B. Murdoch: That is debatable, but we will not get into that.

Mrs McGillivray: So I would have to say I am an ecologist.

Mr B. Murdoch: You are going to add a fourth one. We do not have any more to ask. I got the conservationist in the last one so I have four now. I will not have anybody more to ask that.

What you are saying then too, and it goes back to your philosophy about preserving everything—not preserving, but looking after the whole ecology and everything—is that a lot of people seem to forget there are people too. We worry about losing a species every minute or whatever, and that is a good concern, but we are also people and people have to live on the land.

I just hope you are concerned about the people also because this land has had a plan put on it and some of them did not quite agree with it, yet they owned the land, especially the groups that seem to be complaining about not being more protective of it, the people. You are concerned about the people as an animal too?

Mrs McGillivray: I am certainly concerned about people, of course I am. I am very involved with many things.

On the other hand, I think it was Herman Daly, who is a very famous economist but also an ecologist, who wrote that there is something fundamentally wrong with a civilization that treats the earth as if it is a business in liquidation.

I would have to say that we have to start to look at the earth and the business of owning land in a much different light. We have to be stewards and we have to really be involved with the whole life system of whatever properties we do own and are responsible for.

Mr B. Murdoch: One last question; Margaret, you are here now. They sort of had to keep going until you got here.

Ms Haslam: That's what I said. You can stop talking, Bill; Margaret's here.

1420

Mr B. Murdoch: I guess the last question I will ask is, if you were put on the authority and you knew we were in the five-year plan, and originally the plan was designed to be given back to the local people to look after without the commission, would you be in favour of working towards that goal? That was the original goal. I think it has gotten lost somewhere along the line, but it may come back up again, I am sure, if you are on the commission. I just wondered if you have any thoughts about that.

Mrs McGillivray: I really have not thought about that particular one, but I think it would be a two-way street.

Mr B. Murdoch: I will leave that with you then.

Margaret, do you want something, or do you want to come back?

Mrs Marland: No, I would like to come back.

The Chair: That is not the way we do it, Mrs Marland. We have a block of time for each caucus and that is the way we are handling it.

Mrs Marland: Yesterday we came back and let the Liberals use a couple of their minutes that were left over.

The Chair: Well, we could. Do you want to have some time to collect your thoughts?

Mrs Marland: Thank you.

The Chair: It makes it more difficult for the Chair and the clerk, that is all.

Ms Haslam: Mr Chair, what you are saying, for process you block the time, you get as much questioning done as possible and then you go on to the next block of time.

The Chair: Yes. I can appreciate Mrs Marland's point. If there is time left, we will get back and obviously we are leaving time here. Do we have a member of the government caucus who wishes to participate?

Ms Haslam: There seems to be some concern, and I would like to address that. The Niagara Escarpment Planning and Development Act is "to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment and to ensure only such development occurs as is compatible with that natural environment."

The concern seems to be that we would put people on who are inflexible in looking at development plans. I want to give the opportunity to discuss development plans and whether you feel that you can be an unbiased person and look at a development plan and come to a decision on the merits of what comes forward, or are you going in with a preconceived agenda to this committee?

Mrs McGillivray: No, I would give each case an individual opportunity to present or to prove its case.

Ms Haslam: I just thought that should be brought out. There seems to be a concern that you would take your own ideas in, and I want to be quite clear that under the act you are to do certain things about natural environment. You are to ensure the development keeps compatible with natural environment and you would look at individual cases.

The Chair: No one else at this point? Mr Grandmaître.

Mr Grandmaître: I noticed that you were born in Caledon.

Mrs McGillivray: Yes.

Mr Grandmaître: What did you think of the Caledon brickyard development or the tentative plan to develop a brickyard in Caledon?

Mrs McGillivray: Which brickyard are you speaking of?

Mr Grandmaître: I am talking about the Canada or Dominion brickyard.

Mrs McGillivray: Is that something that has happened recently?

Mr Grandmaître: Yes, five years ago.

Mrs McGillivray: I was not aware of that. I lived on 5 Side Road between the 2nd and 3rd lines on the top of the escarpment which is now the Eaton property. There has been a huge ugly castle built on that property. How they got permission to do that, I have no idea.

Mr Grandmaître: The quarry is located next door to this big ugly castle.

Mrs McGillivray: Is it?

Mr Grandmaître: Yes. You are not familiar with it?

Mrs McGillivray: That would be in the old Credit Valley quarry location?

Mr Grandmaître: Yes.

Mrs McGillivray: I did not know that it was being made into a brickyard.

Mr Grandmaître: Where are you a resident of?

Mrs McGillivray: Collingwood.

Mr Grandmaître: What do you think of the development that has been going on in Collingwood? The Blue Mountain resort and so on? You have lost, not your image, but your character in the last 10 years with these great big condominiums going up. What are your feelings on that? Do you think they are ruining it?

Mrs McGillivray: I would think that is a very strong possibility. I am sorry to see so much happening so quickly. I think things need to slow down and happen on a much slower basis. We are working to preserve wetlands which are within the municipal boundaries of Collingwood at the moment, the last remaining shoreline access to Georgian Bay for the other species, and hopefully to stop some further condominium development. We feel that we need these natural corridors for bird life and the other species. I think we will be successful because we find that our town now seems to be becoming aware that we have much more to look after than the almighty dollar.

We are changing, I think, from what I call a material society to a moral society. In the last two years, I have been having much more success with my ideas. I used to be considered that wild woman, but now I think they really do think of me as Mother Earth. It is interesting the change that has taken place in two years.

Mr Grandmaître: Did you regularly attend at the NEC meetings?

Mrs McGillivray: I have never attended a Niagara Escarpment Commission meeting.

Mr Grandmaître: Never? How did you get interested in the NEC?

Mrs McGillivray: I have loved the Niagara Escarpment all my life and certainly when the government of the province decided to take it on as a whole proposal, I believe that was in 1985, I became very interested in the fact that we were going to have the opportunity of preserving and conserving what I felt was one of the great jewels of North America.

Mr Grandmaître: If you never attended an NEC meeting or gathering, how were you approached to become a member of this commission?

Mrs McGillivray: How was I approached?

Mr Grandmaître: Yes.

Mrs McGillivray: I have worked with several environmental groups and particularly one group where I was given the job to extrapolate from all the various policies on wetlands some kind of what we felt would be legislation which would help to preserve our remaining wetlands. In the process of working with these other five environmental groups, these people asked me if I would stand for being a member on the Niagara Escarpment Commission.

Mr McGuinty: I just want to pursue that a bit further, please, Mrs McGillivray. Who was it in particular who asked you if you would be prepared to stand?

Mrs McGillivray: He was an environmental lawyer who—I am trying to remember his name. The name escapes me right now. He lives in the Beaver Valley—Gerry Weinberg.

Mr McGuinty: What connection does he have with this, do you know? Why would he be making that overture? Who was he acting on behalf of?

Mrs McGillivray: He works with a group called the Beaver Valley Heritage Society, which is an environmental group in the Beaver Valley.

Mr McGuinty: I am trying to establish a link between this gentlemen and the Ministry of the Environment. There is none there that you are aware of?

Mrs McGillivray: No.

Mr Grandmaître: Or the NEC.

Mr McGuinty: Or the NEC, I guess.

Mrs McGillivray: I do not know Mr Weinberg in any way other than through the work we have been involved with, and that is at a very grassroots level. That is specifically at a grassroots level.

Mr Perruzza: Mr Chairman, we are bringing in a third party in the review of this particular appointment, and I do not think it is fair to the nominee to proceed with that kind of interrogation. I do not understand the point of it, I do not see the point of it, and I think it is unfair to her.

The Chair: I am allowing you to put that on the record. You have stated your case. I do not see anything untoward in the questioning. If the witness finds it difficult, I am sure she can indicate that.

Mrs McGillivray: No, I am sorry, I just did not remember his name right away.

The Chair: That is fine. If the witness has some difficulty with the line of questioning, I am sure whoever is appearing before us will indicate that. In my view, the opposition parties and the government members are not going to have restrictions placed on them in respect to questioning, unless I feel they are getting into areas that are offensive to all of us as members. Again I am ruling the questioning, from what I have heard, to be in order. If any member disagrees with that, I am open to a challenge of the Chair's decision, but I personally see nothing wrong with it.

Mr Perruzza: It is not that I meant there was anything offensive in the questioning. I just thought we were talking about another person in his or her absence. The witnesses are really not here to establish the kinds of links that they are trying to—

The Chair: Well, I—

Mr Perruzza: I do not understand it, so that is why I interjected. I live by the ruling of the Chair.

The Chair: All right. We are limited in the time that we have with witnesses and deliberations, and I just hope that we will reflect on this. We have discussed this whole process at length in the weeks leading up to this week, and I hope we are not going to be faced with these kinds of situations and interjections for ever and a day.

I hope, as I have said, that we are going to gain from experience in how we deal with witnesses and the kinds of questions which are appropriate or inappropriate. I intend to be as fair as I possibly can be with all members of the committee in respect to questions, and the members on this side and on that side are going to decide how they want to use their time. Proceed, Mr McGuinty.

Mr McGuinty: Thank you for your ruling, Mr Chair, and thank you, Mrs McGillivray. Those are my questions.

1430

The Chair: Mrs Marland, do you still wish to ask some questions?

Mrs Marland: I notice, Mrs McGillivray, that you are chairman of the public liaison committee for the Georgian Triangle waste management master plan, and I am sure that committee has had to work with the municipal councils.

Mrs McGillivray: Yes.

Mrs Marland: You may have already answered a question similar to this, but how do you see the relationship and role of NEC with local area municipal bodies, not necessarily just the elected bodies but the planning departments and the interests of the individual citizens? If you are appointed to the NEC, how will you consider the interests of this committee, for example?

Mrs McGillivray: Land owners who may have a dump put on their property?

Mrs Marland: Which may be part of what you have been dealing with with this Georgian Triangle. It is not Georgian Bay; it is just Georgian Triangle, is it?

Mrs McGillivray: It is the Georgian Triangle waste management master plan.

Mrs Marland: You have obviously experienced how important it is for all levels of government and all agencies to—

Mrs McGillivray: To be involved.

Mrs Marland: To be involved, to relate together and to make equitable decisions not only in the interests of one of those bodies.

Mrs McGillivray: That is right.

Mrs Marland: So how do you see that as a member of NEC?

Mrs McGillivray: I would see it the same way, that we would have to work in co-operation with all the various municipalities in concert with the people we would be working with. I find in most things that it is always a process. We learn as we go together how to deal with most of the problems.

Mrs Marland: I was interested in your answer to Mr Grandmaître about what could be described as the rape of the escarpment by the ski industry. I see you are a member of Osler, which is probably the original ski club up there.

Mrs McGillivray: It is the original private club, but Blue Mountain was the original.

Mrs Marland: It was older, was it?

Mrs McGillivray: Yes.

Mrs Marland: Obviously from all your interests, all your community work and your other activities and interests, you are very much a grassroots individual who has been totally involved in donating your time to the cause of conservation. You are going to be in a position on the NEC where you are going to have to make some tough decisions, and some of them may not always have to be made in the interests of conservation but in the interests of equity of everyone's point of view.

Mrs McGillivray: Yes.

Mrs Marland: How do you see yourself making those decisions from that perspective, when you have been totally involved really in one side? It is not like you are a developer who is going to be appointed to the NEC.

Mrs McGillivray: Well, I think I can handle those things very well. My experience has been, I think, pretty equal in its approach to things which are presented. I really feel it is a process. You work with people and you work through things and usually what comes through is the best thing.

Mrs Marland: I guess we did not do it this morning with Mr Warder, but we were asking yesterday about the political interests and involvements of any of the people who came before us, even Mr Brandt yesterday. Are you a member of a political party?

Mrs McGillivray: Not at the moment.

Mrs Marland: You have been. Is that what you mean?

Mrs McGillivray: I have been.

Mrs Marland: Which political party?

Mrs McGillivray: I was a member of the Liberal Party about 10 years ago.

Mrs Marland: Did you work on the election campaign this year?

Mrs McGillivray: I worked for Jozo Weider when Jozo Weider was the owner of Blue Mountain. The Conservatives have always been in power in Collingwood. I was very fond of Jozo Weider. He wanted to run at the last minute to be nominated, so I worked for him on his campaign. But that was my card-carrying history of being involved directly.

Mrs Marland: And that is 11 years ago.

Mrs McGillivray: I do vote and I do have very strong ideas, but I am marginal when it comes to affiliating myself with a particular political party.

Mr Owens: As a person who does not live on the escarpment, or as a person who has not attended a NEC meeting, do you see that as being an asset with respect to impartiality and the appearance of impartiality so that persons or groups cannot accuse you of having a vested interest one way or the other?

Mrs McGillivray: Yes, I do.

Mr Owens: Could you explain that a little bit more?

Mrs McGillivray: I think when you come in fresh to something like this you can often see the trees instead of the forest because things stand out easier for you. On the other hand, I think there is definitely a process one has to go through, and I am sure I will be at sea to begin with because I will have to learn the process and do a lot of reading, sorting out and coming to terms with the job that will become real as I proceed.

Mr Owens: That is fine.

The Chair: Anything else, members? I am just curious in reading it. I know absolutely nothing about the NEC. Do you have a view in respect to development? I see that the mandate of the NEC is to maintain the escarpment and lands in its vicinity substantially as a continuous natural environment and ensure that all new development is compatible with the natural environment. How do you feel generally about development on the escarpment? Do you think there should be simply a development freeze? Do you think there is a place for development on the escarpment? Do you have a view?

Mrs McGillivray: I think there is always a place for something but, generally speaking, I feel that we need this natural environment. We just need to conserve it and preserve it.

The Chair: Could you be a little more specific? What would you see as compatible development? How would you define that, from your eyes?

Mrs McGillivray: I think there is existing compatible development of farm lands on the edges of the Niagara Escarpment. There are some buildings that have been put up and some park lands that have been established with buildings on them. I think these are compatible development features that have taken place.

The Chair: But you would rule out residential, commercial, industrial uses, those sorts of things? You see no place for them?

Mrs McGillivray: It is my understanding that there are areas where there is some residential area which is encompassed in the Niagara Escarpment. I would think that is also possible. But by and large the escarpment itself, that great white cliff, if we are talking about the rugged cliff parts, I would have to say that should remain the way it is. But then there are areas where it is farm land and where the craggy cliffs sort of disappear into rolling hills, which obviously are farm lands and areas that are compatible with farming and so on.

The Chair: Let's check the time out here.

Mr B. Murdoch: Mine is a very easy one, I think. You know of the Ontario Heritage Foundation, I am sure. They buy lands along the escarpment. Do you support that? When they buy the lands, they either put them into the conservation authority or the Ministry of Natural Resources, a government agency, so that everyone in Ontario owns it, everyone in Ontario has paid for it. Do you support that concept?

Mrs McGillivray: Actually, up in Barrie we were involved, as you know, in the procurement of the Feversham conservation area.

Mr B. Murdoch: That is where it shows a problem with the escarpment; it is not in the escarpment.

Mrs McGillivray: No, it is outside, just outside.

Mr B. Murdoch: I know but it is not, though. We had trouble—

Mr McGuinty: Mrs McGillivray, from what I have heard from you today, you say that you will be bringing a predominantly environmentalist perspective to the commission. Do you think that is fair?

Mrs McGillivray: In this day and age, yes.

Mr McGuinty: Do you think what I said is fair, my analysis?

Mrs McGillivray: Yes.

Mr McGuinty: Do you see that as interfering with your ability to bring an objective assessment to the matters that you will be dealing with?

Mrs McGillivray: No.

Mr McGuinty: Can you tell me anything else that might reassure me further in that regard?

Mrs McGillivray: Well, maybe we can work on one of the problems together, or one of the things that would come up. I can tell you that the Federation of Ontario Naturalists gave us the conservation award last year.

The Chair: Thank you very much, Mrs McGillivray. We appreciate you appearing before the committee today. We will be getting in touch with you in the very near future as to the committee's decision.

Mrs McGillivray: I did want to mention—I cannot remember whether you were Liberal—I very much enjoyed Jim Bradley and I also really appreciated the fact that the Ministry of Municipal Affairs gave over its jurisdiction to the Ministry of the Environment. I had a great deal of respect for the Liberal government in that respect.

Mr Grandmaître: That's enough.

Mrs McGillivray: I just wanted to tell you that.

The Chair: That might swing a vote or two. Thank you very much.

Mrs McGillivray: Thank you very much. I have enjoyed this opportunity.

The Chair: Before we adjourn, Mr Grandmaître was inquiring yesterday about the status of our request for the appointments secretariat to provide us with a list of OIC appointments that are not going to be subjected to review by this committee. This arose as a result of Robin Sears's appointment. As of today—the clerk just checked—we still do not have that list and we are going to follow up on it. I personally see no reason why there should be a lengthy delay in receiving that list, so hopefully we will have it this week for scrutiny by the members.

Mr Grandmaître: Any reasons given?

The Chair: No, not at this point. I am hopeful we will have a response and the requested material by the end of this week. If we do not, we can certainly raise the issue.

Mr Grandmaître: Absolutely.

Mrs Marland: Just on another matter, I noticed that we are starting at 10 tomorrow for a one-hour determination, and then at 12 noon we have a meeting of the subcommittee. I was wondering whether another choice would be to have the subcommittee meet at 11 or the meeting start at 11.

The Chair: My own personal preference, since I have to attend the subcommittee meeting, if we are going to change it, I would rather see the subcommittee time change to 11 or 11:15.

Mrs Marland: Yes. It is not necessary to have it so spread out is my point.

The Chair: We will go with about an 11:05 start for the subcommittee rather than 12 noon.

Mr McGuinty: I wonder if we could establish a procedure to deal with extrinsic evidence. What I am referring to is the type of thing that Mr Ellis submitted, for instance, that letter. I interpreted paragraph 10 of the terms of reference as I thought was appropriate. I would like confirmation that my interpretation was correct and, if it was, how are we going to deal with these in the future?

The Chair: The clerk and I did discuss it. Hopefully he is going to seek advice on that question and we will have an answer for you tomorrow. I share your interpretation, to be quite frank, but the clerk feels there are other interpretations that could be applied. He is going to talk to others in his office and try to come back with an opinion from the members of the clerk's office in respect to what we can and cannot do. So perhaps we will have this discussion tomorrow.

Mr Silipo: Just on that whole issue, I think it is a discussion we should have at some point, because I also have some concerns about the nature of the kind of information that we are being provided with through our own research processes. I do not want to get into any details at this point, but if we are going to talk about the whole realm of information that is provided to us, I want to put that into the hopper as well. I think we need to develop some clearer guidelines around that as well.

The Chair: The meeting is adjourned. We will see you tomorrow morning.

The committee adjourned at 1445.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 31 January 1991

The committee met at 1004 in committee room 1.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: Can we come to order, please. I think we are going to follow Mr Silipo's advice unless we run into some problems in respect to the deliberation this morning. We will break it into time slots in respect to each intended appointee, both Mr Warder and Mrs McGillivray, up to a half-hour each to discuss those potential appointments.

We will start now and following the pattern we have been establishing in this committee, since these are the appointees the third party requested, we will give the third party representative the first opportunity to speak in respect to Mr Warder's appointment.

Mr B. Murdoch: I think there are a few things I have to explain here after I heard the questionings and things that went on yesterday. It is to do with the appointment so I do not think I am out of order. I feel there are a lot of people that do not understand what the Niagara Escarpment is all about with some of the questions that were asked. I really think that when members question people on these kinds of commissions and things like that, they should find out what the Niagara Escarpment is all about and especially some of the trouble spots that are in there.

I know when Steve Owens talked yesterday about Bill's Burger Bar in the the Niagara Escarpment, it was in jest. I think, though, that what we have got to look at is that people, especially in Grey county, do not want to ruin the Niagara Escarpment, but they have had a long conflict over the Niagara Escarpment Commission being formed to look after their supposed problems.

If you look at the Niagara Escarpment, it starts in Niagara Falls and ends in Tobermory. It has pretty well been ruined in Niagara Falls and Halton and places like that, as you know, but if you ever look at the map, it starts there in a nice little thin line and when it gets to Grey county, it widens right out and takes in a lot of land that should not be taken in as far as we in Grey county are concerned.

I just want to make it quite clear that the people of Grey county want to protect the Niagara Escarpment as much as anybody else, whether they be in Toronto or Windsor or wherever, but the way it is being done is wrong. It is almost like a communist thing, with a board that are not—

Mr Grandmaître: Jeez.

Mr B. Murdoch: Well, I have said this before and I will say it again: That is what it is run like. There is no consideration of the people that live on the escarpment and we are quite upset about it in our area. And as I said, I know Mr Owens was just doing that in jest, but we do not have a lot of things along the bottom of the escarpment or anywhere near it.

When we get candidates like the two we did yesterday, they are going to make things worse. The people up there are upset enough now. I want to point out that the people that are on there right now from our area are quite capable and have done a good job; it is too bad that we are going to lose them. But people like we have interviewed in the last two days are certainly going to make things a lot worse, and I just want to tell you that. I know how you are going to vote, and that is fine—at least I assume I know how you are going to vote—and I cannot do anything about that.

I want to talk about the process, still talking about the people that we talked about. This whole process is just a farce, I feel, and it is a waste of our time and the people's time here. Today you are going to vote, and there are five people on this side to vote and six people over there to vote, but two of you people were not even here yesterday and you are going to vote on these candidates, unless you declare yourselves that you do not know what happened yesterday. There are two new faces over there today that are going to vote on this, and this shows me that this whole process is not the way we should be going.

You people are the government and you got elected to do a job in Ontario and I think you should be doing your job. Setting up this committee and allowing these people to come here and be interviewed is a farce, a charade. You are going to vote for them. Hell will freeze over before any of you people vote against Bob Rae's decisions. Mr Rae has put these candidates towards us, and you are not going to vote against them, so why are we sitting here interviewing? That is another process. People were interviewed yesterday. Now I may not be in favour but I may be. I am not going to say. But these people sat here and went through harassment for a $125- or $150-a-day job to which they go twice a month. That is totally ridiculous.

You people, the government, whether it is you people or whoever, the government was elected to do a job and I think it should do its job. Part of that job is to put people on boards and commissions. If they are no good, that is your problem, you will live with it. If they are good, that is fine, you will live with it also.

I am really upset that this whole process is going on like this and also the process of people having to come in here and being asked questions that really they are not getting paid to answer. Mind you, I asked some of them, but that was the process. I thought about it and I think, as I said, it is a charade, it is a waste of time. Therefore, Mr Chairman, I am going to leave this meeting and I am not going to vote on these people. My time is being wasted here and I think everybody else's is, so that is it for me.

1010

The Chair: Mrs Marland, you still have approximately 15 minutes, up to 15 minutes.

Mrs Marland: One thing that I would like to say is that I hope the people who have been before the committee this week have not felt harassed. As a member of this committee, I would not want to think that I had harassed anyone who came here, so I do hope that they have not felt harassed.

My impression has been that the people who have come before us have probably enjoyed the opportunity to come and talk to an all-party committee of the Legislature. I think the whole process of all-party legislative committees where the public is invited to come before them for any number of interests or causes, and now this most recent one, which is the appointment to government agencies, boards and commissions, is one where in my experience, which is limited—my experience is only six years—I do not think that people who come in to these committee hearings have felt harassed.

I think there are times, interestingly enough, depending on what the subject matter has been, that people have come and perhaps harassed all of us as MPPs, and that is the public's option as far as I am concerned. I think that is the good part about a public process on any matter with which we have to deal and on any matter with which we have to make decisions as legislators. I think it is great when the public has that opportunity to come in and talk to us.

In this case, this is a brand-new process, as we have all said a number of times this week. I am sitting here not as a regular member of this committee, as I have also mentioned. I am substituting for another member who has to be in another committee because that is a subject area for which he is the critic. My feeling is that this process that we are into in this committee has yet to be proved, and I think when it will be proved that it is not just an exercise in a waste of time is the day that the government members vote not as six people in a block but when they can vote individually, independently, should they choose. I am hoping that that will be something that you will at some time be able to do so that you disprove any accusations that anyone in the public makes about this process.

Ms Haslam: Mr Chairman, as a point of information, could we perhaps discuss what you and I discussed the last time we had a vote, the fact that I said I wanted to vote in a way and the assumption was that we were all in favour and I was not given a chance to vote? As a point of information, I want that on the record.

The Chair: Ms Haslam, you will have an opportunity when we make the circuit. If you want to do that, you can do that.

Mrs Marland: Karen, you can say that when you get to speak, but I also want you to hear how I am saying this. I am not saying it to offend you. What I am trying to put on the record is what I believe about this process that we are into.

The bottom line is that historically all governments, regardless of what party they are, have been accused of partisan appointments. Frankly, I thought when this process was announced that it was a very progressive step on the part of your government. I do not mind saying that because that is what I thought.

I thought that this is going to be good because it is going to give an opportunity to have people come before this committee who are up for appointment. They obviously have not been appointed until this committee approves them. I thought that this is great because for the first time those people are going to have an opportunity to come in and tell us why they are interested in serving on a government agency, board or commission and we are all going to have an opportunity to ask them questions about their interests and their background.

As I also said yesterday, we cannot judge in a 45-minute exchange their total competency so some of whether or not we support them has to be based on other people's impressions and information and some of the background that we may know about those individuals. I support the process. I am delighted that your government has introduced this process in terms of these government appointments, that your Premier is willing—I should say our Premier—to have at least some of his appointments under public scrutiny. I have to say "some" because in the interests of time, obviously we cannot get to meet all the government appointees to agencies, boards and commissions.

Where the system will fail is if absolutely everybody who comes in, if we through our questions—and our questions must be sincere and genuine in order to make this system work—if during that process there is something that perhaps makes any of us think, "This person is fine, but there probably are other people for this important job that might do the job better so I don't really want to support this individual automatically," this system will work as long as the six government members on this committee do not feel that they have to come in—and do not be offended; I am not saying that this is how you are doing it because we have not been doing it long enough yet to know how you are doing it—but the government members should not feel that they are going to come in with blinkers on and automatically support any of these people because their government has appointed them.

I think the fact of the matter is that these are people who have been recommended for appointment to your government and the appointments can only be made by your government so for you to do the job thoroughly you have to look at these people as thoroughly as we are. We are not automatically going to look at people and oppose them because they are recommendations of your government. That is not the process.

The process is that these people's names have been put forward for appointments. They may have been put forward from any number of sources and that is what we have discovered in these three short days, that these names do come forward for recommendation from any number of sources. I think for all of us to do the right job we have to come in and decide that there might be times when all six government members do not have to vote the same way, nor do you have to automatically support people because they are appointments that have already been recommended by whoever is in charge of the appointments for your government.

If we want to prove that this system is worth while, then I think we have to see some flexibility in how the process is conducted. Up until now we have only voted on three people. We have not voted before this week so, frankly, I do not think after voting on three people I am in a position to condemn the process. I am not going to sit here and say that this is a farce, that it is not working, that the committee exercise is going to be a waste of time, because frankly, after only three appointments, I am not going to assume that this is not going to work.

1020

I recognize that my position is not in agreement with my other caucus member, but I think that proves to you the very point that I am making. The point is that we all come in here as individuals with a very serious responsibility and it is like everything in life. I am sure the six of you do not all agree on everything, and I respect my colleague's opinion and his right to his opinion, as I respect my own.

I feel that the process of having the opportunity to review these appointments is a good one. I look forward to it continuing. Actually, this colleague is a substitute on this committee as well, so we both are. So you may not have the pleasure of my company at future meetings unless I am a substitute.

Mr McClelland: Sorely missed.

Mrs Marland: Sorely missed, says the member for Brampton North. I hope this process will continue and be proven by all members that it is not a farce where the six government members will automatically support everyone and they will all vote the same way. I am sure there will be times when they will demonstrate their individuality and prove that we are not sitting here as government and opposition members on this committee for the purpose of a party stripe. I do not think we are. So when you get to speak, do not start refuting everything that I am saying because you think that is—

Ms Haslam: You prejudge me, Margaret.

Mrs Marland: Do not think that I am saying that is how it is all going to happen, because I am not going to say that is how it is going to happen in the future, because we have not got enough history on this committee yet. It has not been going long enough. So when it comes time to speak about—and I suppose that is what we are doing right now, speaking about yesterday's appointments. Is that right?

The Chair: Yes, and you have approximately three minutes.

Mr Grandmaître: I think you should pass it on.

Mrs Marland: I did not know whether my colleague had raised a point of order and that was what we were discussing. Okay, so we are talking about two people from yesterday.

The Chair: We are actually dealing with one at this point.

Mrs Marland: And that is Mr Warder. Okay? It is hard to speak about one and not the other.

The Chair: Well, I think I am wrong in that. Actually, we are only being allowed one hour and we are slotting 20 minutes to each caucus, so your 20 minutes is going to be up shortly. I gather you are going to have to talk about both. We are all going to have to talk about both since we are only allotted the one hour.

Mrs Marland: Okay. I think that all of these agencies, boards and commissions work well if we have a broad spectrum of representation on them. We have not been furnished with a list of the existing members of the NEC, which I think might be helpful in the future perhaps so that we can look at the backgrounds of the existing members of a board so that when we are appointing new members we are looking for a balance of representation.

Frankly, the NEC should have a balance from many interest bases, and without knowing who the present, existing members of the NEC are or what their backgrounds are, I cannot say that Mr Warder or Ms McGillivray are not appropriate appointments. They are obviously people who have well demonstrated their grass-roots involvement in their community and there is no question they totally come from the environmental perspective and the conservation perspective.

I think if we do not agree with the NEC, then we should change its mandate rather than disagree with two individuals who may be appointed to it. If we do not agree with the mandate of conservation of the Niagara Escarpment, then that is an issue apart. I hope that the appointment of Ms McGillivray and Mr Warder will mean that there is a balance of all interests on the NEC, because only if it is balanced will it work to the interests of all.

Ms Haslam: I would like to just put it on the record that I had spoken to the Chairperson of this committee regarding the fact that it was a quick vote and I was not given a chance in the first sessional vote to vote the way I wanted. So I want to go on record as saying I agree with you, Margaret, that we vote our own individual positions and that I brought this to the attention of the Chairperson, that he automatically assumed that the six on this side were voting one way and the quickness of the vote meant that I really did not get a chance to raise a concern.

I spoke to him about it. I said that it would be fine, I was not going to bring it up, we would go with what had happened, but I asked him in future to be sure that he did not just assume the six people on this side of the committee were going to vote that way. I want to be very clear on that, Margaret. This is not the situation where we vote aye or nay and somebody tells me how to vote. I had a very, very strong opinion in the previous voting and unfortunately it was not given the opportunity to be done. It is done and that is fine.

The Chair: I think it is appropriate that I say something at this stage and I certainly will not take it off your time.

Ms Haslam: No, I am done. I just wanted to say that was the case and I had raised that interest.

The Chair: I wanted to respond to that as well and say that those were appointments where it certainly appeared there was unanimity. There was no division here. I looked around and did not see Ms Haslam's concern being expressed. I am just urging any member, if you have a

view, do not depend on me seeing your hand being raised. Voice it and call my attention to it, and if indeed you want it recorded that you are opposed to a particular appointee, or whatever your view is, you simply have to, as an individual member, request a recorded vote and we will have a recorded division in the committee.

Mr Owens: I would just like to make a couple of remarks with respect to the process that is ongoing. As with Mrs Marland, I agree that we are clearly within a new process with respect to interviewing suggested appointees. The process that I see happening here and should be happening is that this should be an evolutionary process. We are not stuck within a set number of parameters, and I certainly hope, as I am only a substitute as well on the committee this week, that the full committee, or the subcommittee, more appropriately, will take a look at some of the things that have happened over the past week and perhaps make suggestions through a report as to how things can be changed and certainly improved. As I say, it is an evolutionary and ongoing process.

I have been disturbed from time to time by the line of questioning that has taken place. I am not quite sure what a person's party affiliation or who he or she donates money to has to do with the type of job that he or she would do on a particular board or commission. I certainly hope that as this process evolves we will try and restrict our comments and our questions to issues that are germane to the position that is being applied for.

With respect to the appointees that we are expected to vote on shortly, I feel that a person applying for this position, especially to the NEC, has to be committed to listening to both sides and that it is his or her goal on the commission to represent all interests and try to achieve a sense of balance without any accusations of having a vested interest with respect to one side or the other. I, for one, will plan on supporting the two appointments, as I feel that they will do a reasonably good job and will try their best, again, to achieve the kind of balance that these committee members are striving to achieve.

1030

Mr Silipo: I want to just cover a couple of things. I think it is unfortunate that Mr Murdoch has chosen to make his points in the way that he has and in basically orchestrating a little media show. That is fine. It is every member's right to do that, but I think it is, in my view, not the most effective way to try to underscore the kinds of problems that I am sure each of us are identifying as we are going through this process.

One of the things that he said I wholeheartedly agree with. I think it puts people who are coming in substituting—and we all know the process of substituting here is a very common one—in an awkward position of coming into a situation like this and voting on appointments when they have not had the opportunity to be here for the interview. Certainly whenever we get to discussing some changes, that is going to be one area where I will certainly push very clearly for some changes.

It seems to me that one of the easier ways to remedy that would be to have the rules changed so that in effect a decision about the appointee is made immediately after we do the interview. That way we do not run into the potential problem of people having to be substituted by others, unless there is a rationale for having it done at the following meeting that has escaped all of us. I do not think at this point it is something that I see that makes sense to continue, but that is the process we have so far and unless and until we are able to make those changes, then we make the best that we can of it.

I would agree with Mr Murdoch that it is an area that we need to try to improve upon.

Mrs Marland: You mean it is hard for Irene to come in and vote this morning?

Mr Silipo: Yes, absolutely. I am assuming that the two people who are substituting here today have some sense of what we are talking about, if they were to hear that there were some major concerns about the individuals we are discussing. I suppose we have bent the rules somewhat already. I suppose that nothing would prevent us from, in effect, deferring a decision to another time and in fact having the members who were here yesterday be present for the vote. We could do that. If people want to do that, I certainly would support that.

There are a couple of other things that I just want to say. I guess I disagree with my colleague Mr Owens about some of the questions. I have made it clear also that I tend to agree that in fact the questions that we ask the people ought to be as wide open as possible. My only concern has always been the effect on the individual, realizing that in most cases we are dealing with people in front of us who are not used to this kind of process. But other than that, I think any question is fair game.

As a member of the government, I quite frankly put myself in the position of saying, "If I were sitting on the other side, what kind of freedom would I like to have in terms of the kinds of questions that I ask?" I think that it is incumbent upon us on this side to be prepared to go as far and wide as we would like to go if we were sitting in opposition. I think it is only fair that that be the attitude we undertake.

With that, I think the question of party membership is there for a relevant question. It has been interesting, of course, to date that what we found from the people we have interviewed has been the fact that they have not all been members of the NDP. In fact, I do not know what the tally looks like so far, but it certainly does not put intended nominees in the NDP membership in the leadership in that category, by any stretch of the imagination. But I do agree that is just part and parcel of the questioning process.

As far as the individuals, I will support the appointment of both individuals and I will say that it is also quite clear from their own answers that they both acknowledge that they have a pro-environment approach in their attitude; more so, I suppose, with the second person we interviewed than the first. Again, I do not think we should try to hide that. That is what they said. But it seems to me that if the division of the vote is going to occur on that aspect of it, well, that is fine; then let's also be clear with each other that that is in fact what we are doing.

I do not have any trouble with our appointing to a commission like this people who have that kind of perspective. My only concern is, are they conscious enough of their responsibilities that they will undertake to be as fair as they can be in the process? If the answer in my mind is yes, then I will support it. In this case the answer in my mind is yes.

I may be mentioning this from time to time, but I have always worked on the presumption that each of us, and therefore any individual, has a particular bias one way or the other. In fact, I remember one of the first lessons in grade 9 history was from a teacher who put on the blackboard the word "bias" and then proceeded to talk with us about the fact that indeed each one of us has particular biases which have come about because of our backgrounds, because of our experiences, because of whatever we have gone through. So I think we ought not to pretend that anyone we appoint to any particular body should go in there without any particular slant or any particular preferences of doing things one way over the other.

I think what we are looking for is an acknowledgement of that, quite frankly, where it exists, and in addition to that, a reasonable demonstration that people can be fair and can be impartial and can deal with issues on an individual, case-by-case basis, as the people who will have to go to this body will have to demonstrate. Again, if there is enough evidence in their answers to show that is what they will do, then I think they are worthy of support. In this case I think they have demonstrated that and I will support their appointment.

Mr Perruzza: I would just like to make a couple of comments. I was really disappointed by—let's call it the show this morning. I think we have come a long way, certainly as an outsider watching this process and watching it in the past, both on the federal scene and on the provincial scene. This kind of forum, this kind of opportunity, was never given to government members, let alone opposition members. It was a closed-shop deal. The Liberals did it their way when they were in office and the Conservatives before them did it their way and this forum was never available to any of the members of this Legislature. It is a forum that is available now.

A lot of assumptions were made this morning that we are all going to be voting the same way on these appointments as the government side on this committee and we are always going to vote down the opposition. A number of appointments have come through and I believe the question was asked of almost all the candidates who appeared before us which parties they belonged to. I cannot recall any of them saying that they had either been members or contributed to the NDP. There was one; I apologize for that. But the majority of them either have admitted to having been members of or supporting financially either the Liberal or the Conservative Party.

Mr Murdoch did not grandstand and walk out of that meeting, kicking the mud off his feet as he walked through the door with the cameras following him, yelling and screaming that this was simply a farcical show and it has all been staged and a setup. That did not happen with those appointments. It did happen, I guess, with one of the appointments yesterday and I do not know which of the two people we interviewed yesterday upset him to such a large degree that he did what he did this morning. But I found them both very interesting, competent, articulate people who will serve the commission well and serve the people of Ontario well. I have no problem with the people who appeared before us and I think we can argue competence until we are blue in the face. Who is competent? Who is not competent? I think we will all have varying opinions on that particular issue.

I have disagreed often with my colleagues on this side. I disagreed with some of the comments that were made by Mr Owens this morning about what the role and function of this committee is. I think that is my prerogative, as it is the prerogative of the members on the opposite side.

I think we have come a long way. I think this is a good process. Certainly there are some glitches in it that need to be ironed out. With perseverance, I think we will iron them out. But if we continue to have demonstrations, as we have had here this morning by both of the parties, then maybe we as a government have to look again at this process and reassess it and approach it from a different direction altogether.

1040

Mrs Marland: On a point of privilege, Mr Chairman: I would like Mr Perruzza to retract his statement about demonstrations by both parties.

Mr Perruzza: Margaret, I agree. When and if your leaders come to this committee and, I guess, speak for the party as a whole, then, you are right, I would make that comment, but when individual members of either party do as Mr Murdoch did this morning, then the label should only apply to members or the individuals of the parties. I agree with you on that, so I will retract it in so far as that goes.

Mr Grandmaître: I think our first responsibility this morning is to approve or disapprove Mr Warder's appointment. I want it to be known that I will be supporting the appointment of Mr Warder.

The Chair: We are dealing with both of them.

Mr Grandmaître: Are we dealing with both? I will be supporting both candidates. I feel a little sorry for these people, not only these people but all people appearing before this committee, because I have criticized the system before and I will continue to criticize the system for a number of reasons. I think it is flawed. I think we had a golden opportunity to make some changes, to amend our terms of reference.

We had a great meeting with Felix Holtmann, who gave us his experience of three and a half years as Chair of the federal committee. I think we should have taken maybe half a day. If everybody was really sincere about the ongoing system—we all agree that it is not perfect. Nothing is perfect in this place; nothing. I have been here for six years and two months and 35 minutes and some few seconds. I was quick to learn that it is not easy to live in this place. It is not easy. But I would like to remind the members opposite that except for our friend Pat, who was here once

before, that for six years we were the government. We were called liars, cheaters, bums, scum and—

Mr Owens: I was not elected.

Mr Grandmaître: No, I know you were not around. All of these great adjectives were used to describe us. For six years we were crooks because of our patronage appointments, for being partisan. I see that a member is shaking his head. He is still agreeing that we were crooks, that we were cheats. He is still agreeing with this line. I want to find out—

Mr Peruzza: On a point of privilege, Mr Chairman—

The Chair: I hope this is a legitimate point or we will be doing this all the time, Mr Peruzza.

Mr Perruzza: If Mr Grandmaître is referring to me, I would like to—

Mr Grandmaître: Did I mention your name? You were just bobbing.

The Chair: He is not pointing out any member specifically.

Mr Grandmaître: I am not. I agree with the government whip. We all have a little touch of bias in us—let's be honest—because we are politicians and we believe, as I believe, that the Liberal philosophy is the most perfect one and you might believe that the NDP philosophy is perfect, and also for our friend who has left, Mr Murdoch, he might believe that is the way to deal with the question of what our responsibilities are this morning.

I want to point out that I still do not agree with the system, the process. I have said it before and I will repeat it: I was very pleased when the Premier introduced in the House some kind of plan, so that members of the opposition and all members of caucus—every caucus—would be invited in the process of selection, but let's be honest.

Mr Owens: You want that recorded in Hansard, by the way?

Mr Grandmaître: I feel a little sorry for these people appearing before us, because do not forget, they are sitting there and they are saying, "I am the only one." They do not have a choice. They have to agree with me, because they do not have a second or a third choice.

I am going back to what Mr Owens was saying, that he did not agree with the types of questions. I want to remind you, Mr Owens, that for six years we were on trial by your party because we were cheats, bums, scoundrels, you name it. I think it is a golden opportunity for all of us today to say, "Hey, let's put all of these biases aside and let's deal with what we have to do." If we want to do a good job, I think the process has to be changed.

We were told that we, the members of this committee, would receive a list—Mr Chairman, I am addressing this to you, particularly—of different categories—I qualify them as categories—as positions or appointees or appointments that are not to appear, that are excluded to appear before this committee. We have not seen this list. We were promised that list last week. I am still waiting for it. I am telling you, Mr Chairman, on Tuesday if we do not have a list—

The Chair: I have it.

Mr Grandmaître: Thank you. You see, this is what I like about the Chair. He moves. Mr Chairman, I want to tell you that I think the process is a start, but the process has to be amended. It has to be improved, because after all I think the intention of the government was to make it more accessible. For people who never had an opportunity to open the great doors of Queen's Park, now the government was more accessible. I do not think the present process opens the doors to everybody. It is opening the door to the appointee. That is what it is doing, and we have to accept.

I know we are all going to vote independently, but let's face it, the final decision belongs to the Premier. Let's be honest. The people recommended to this committee are good people. I do not care if they are NDP, Tories or Liberals. They are good people and that is why they were referred. But it is the way it was done. That is what we are questioning. It is the way it was done. How did they get involved?

Perhaps I can refer to Mrs McGillivray, who has never attended a meeting of the NEC. She does not know what it is. But I think she is sincere. That is why I am approving her appointment. But how come this lady was chosen to be your representative—and I say "your representative"—on the NEC?

1050

Mr Hayes: She is a Liberal.

Mr Grandmaître: I said it could have been a Liberal, an NDPer or a Tory. We want to know how these people were approached, because the former government was continuously being accused of playing politics. Ladies and gentlemen on the other side, if you think you are not playing politics you had better smarten up, because you are in politics and we are all playing politics. That is the name of our game.

Mr Perruzza: You figure that if you get on a soccer field with shorts on, you play soccer.

Mr Grandmaître: No, I do not want to kick you around.

Again, I think we should meet on Monday or some time next week to look at our terms of reference because I think they are flawed. They have to be improved. At the same time, I want to point out that I think our clerk and our research people are doing an excellent job, especially for the newcomers who do not know these people. I think they are doing a great job and I hope they will continue to provide us with all the information necessary in order for us to make the right decision.

I want to conclude by saying, and then I want to pass to my colleague Mr McGuinty, that I think the time is now. I think we should look at the system, look at the process before this committee loses faith.

Mr McGuinty: I want to concur with the comments made by my colleague Mr Grandmaître and add the following to it. I think it is important to remember why it is that we are here. The objectives, as I understand them, are to achieve openness. If I might quote from the Premier's statement, he said: "The time has come to strip away the secrecy and mystique which have always

surrounded government appointments. The process must be open to everybody. It must be understood by everybody." It is noteworthy that he says, "The time has come to strip away the secrecy and mystique." He does not say "some of the secrecy" or "some of the mystique."

If we want to set out to defeat those objectives, we could probably do the following. We could draw up a list of special appointments which we could not review. We could draw up a list of questions we would not be allowed to ask. We could prevent us from reviewing the screening process which has led up to candidates appearing before us. Then we could attempt to limit in any way the information we receive regarding the candidates who are about to appear before us.

I would caution the government members sitting on this committee against doing any of those things if their true intention and our true intention is to fulfil the objectives of openness and stripping away secrecy and mystique.

The terms of reference are sorely lacking and the sooner we can improve upon them the better. We have no power of veto and I would implore the members to understand the significance of that. Even if we, the members of this committee, unanimously agreed that a candidate was not suitable for a particular appointment, our decision could be overturned. What significance do we have? What role are we playing here? That is extremely important.

Again, there is the matter that we do not have equal representation. If we are truly to render this a non-partisan matter and bring a non-partisan and fair approach, then there must be equal representation.

With respect to these two candidates, again the general comments I offer is we have no perspective. It would have been very helpful for this committee to know how these two were chosen, what screening process was used, how they were selected from the original 17. We do not know whether any of the 15 others were better suited for the position than these two. For that reason, any opinion that we offer here will always be severely limited.

I have no doubt in my mind that these two candidates who appeared before us were openly biased and that they leaned towards environmentalist causes. However, I think some merit can be drawn from their candour. Better the devil you know than the one you do not, not that I am ascribing any demonic tendencies to these two. Also, I thought they had good life experience, something which always has significant merit. To my mind the gentleman had rendered tremendous public service in the past. I also take some heart in knowing that they will be sitting on a large body. If one of them individually was to sit in judgement of any of the matters appearing before them, I would have tremendous concerns but I think their particular slant, their bias, will merge in the larger body on which they are going to sit. For that reason I am supporting their appointments.

Mr McClelland: Approximately, Mr Chairman?

The Chair: Five minutes.

Mr McClelland: Plenty of time, thank you. Mr Chairman, thank you for the opportunity of making a few very brief comments. I do not believe I will even use the time you have allotted me. Mrs Marland made a comment with respect to the lack of track record of this committee. I wanted to comment on that. The point is well taken. None of us should proceed with any preconceptions with how people will undertake the responsibilities on this committee in the future. It is certainly my hope that individuals, and it has been expressed very ably, I believe, by Mr Silipo, will act as individuals and render their best judgement for the candidates who come before this committee.

I will not comment at length with respect to what Mr Murdoch said other than to say I understand, I think, the genesis of his frustration and concern with respect to the process. It seems to me I am in accord with him at least to the point that the government undertakes the responsibility of putting candidates before this committee. Having done so, his concern that the committee not simply put a cosmetic spin on that process I think I understand. I hasten to add though that to prejudge that would be inappropriate. As well as by a colleague, Mrs Marland, that there is no track record to date. We ought to proceed, as we are all honourable members, with expecting the best. In so setting that expectation, I believe that that can be achieved. That people will undertake the responsibilities without any preconception or bias towards the process itself.

Mr Grandmaître and Mr McGuinty have raised some concerns with respect to the process. I too have some concerns and I know that will be reviewed by the subcommittee and that the terms of reference will be refined. I would think one of the issues that would need canvassing is with respect to how individuals are selected to come before this committee. Which individuals appointments are scrutinized?

It is obvious, given the huge numbers of appointments that fall with the privilege of the government, the Premier and his colleagues in cabinet, that not each and every individual could possibly appear before a committee of this nature. I think then it begs the question of which individuals are brought before the committee. Is it done on an audit basis? Is it done by the committee? Are the names presented from the appointer? Does the committee have the opportunity to canvass the global list and then review from that point?

I will leave that with respect to the process and what happened this morning and just simply say I think many of the points are well made and bear our close consideration as to the process with respect to how this committee operates in reviewing appointments as refined. As a substitute member, I have appreciated the opportunity of sitting in and observing and participating, at least on the margins, with what has taken place.

With respect to the two candidates who were in consideration today, let me simply say that on a few points that were raised I take a different view, with my friend Mr Grandmaître, that one of the candidates had not attended any of the Niagara Escarpment Commission meetings. I find that perhaps refreshing and an opportunity for somebody to come with a different perspective, somebody to bring freshness and draw on her experiences and particular skills that she brings to that without any preconceived idea

of the nature of the conduct of the meetings, without that frame of reference, that framework being predetermined for her. I think that is beneficial, I think one ought not to look at a person's direct involvement to measure his or her abilities. Many of us would not be sitting here if we did not have to have proven our records. The old chicken-and-egg process; how does one prove one's ability until given an opportunity to do it? I think that the candidates acquitted themselves well.

1100

I would not presume that any one of us would be in accord with every point any individual raises. I doubt if we have unanimity on our approach to virtually any subject or any matter that would come before any committee. But I think the individuals presented themselves as able, capable, thoughtful people and will bring their own particular skills and, more important, discharge their responsibilities with a sense of integrity with their best efforts and approaching it, I think, with a sense of enthusiasm and bringing, as Mr McGuinty said, their own particular life experiences to the NEC. I will be delighted to support them and vote in favour of their appointment. Mr Chairman, I thank you for the opportunity of making a few comments.

The Chair: I am now at the point where we will look for a consensus. There seems to be a consensus. I will deal with them on an individual basis. Does the committee concur in the appointment of Maitland Warder as an appointee member to the Niagara Escarpment Commission?

Mr Perruzza: I would like to request a recorded vote on both of those, please.

The Chair: Then we will require a formal motion to move concurrence of the appointment of Mr Warder.

The committee divided on Mr Silipo's motion, which was agreed to on the following vote:

Ayes – 10

Grandmaître, Haslam, Hayes, Marland, Mathyssen, McClelland, McGuinty, Owens, Perruzza, Silipo.

Nays – 0

The Chair: Moving on to Mrs McGillivray; are we going to have a similar motion by Mr Perruzza and a request for a recorded vote? Agreed.

The committee divided on Mr Silipo's motion, which was agreed to on the following vote:

Ayes – 10

Grandmaître, Haslam, Hayes, Marland, Mathyssen, McClelland, McGuinty, Owens, Perruzza, Silipo.

Nays – 0

The Chair: A couple of things before we break. As you know, the subcommittee is meeting at 11:15 and we are going to be discussing the schedule and a number of other matters. We will have some OIC appointments to consider as well. But I wanted to say in response to what Mr Grandmaître was saying earlier, indeed we did make a request of Ms Phillips, the appointments secretary, in respect to the order-in-council appointments that would be not subject to review by this committee. We have a response from Ms Phillips. It is a rather general sort of letter indicating that if we require further details there are avenues available to us as a committee. So perhaps we can take some time to digest that and this afternoon we may want to take some time to discuss it and see what, if any, further action we wish to take as a committee.

Also, later on today I will have a statement in respect to the matter raised by Mr McGuinty. It could generate some discussion. One of the things I am going to suggest to the subcommittee is that once I make that statement, that it circulate to members of the committee, that perhaps we take it with us for the weekend and slot in some time next week because we have a rather open schedule. If we want to talk about that particular aspect of it, and perhaps some of the other concerns that are being raised about the process, that perhaps might be the opportunity to do that.

Okay, nothing further; we will adjourn.

Mr Silipo: I have something and it relates to the question I addressed earlier about our rules with respect to when we make the decision. I do not have a copy of the rules here, but I think they actually are clear in saying that we make the decision at the meeting following the meeting at which we interview.

However, what I would like to ask is whether that is also within the realm of something we could adapt even now. In other words, could we decide to change that so that we would make the decision immediately following the interview? I ask that simply in terms of whether we can do it, because I know we have also applied the rules somewhat more flexibly than they are written. For example, the person we are interviewing this afternoon, according to a strict reading of the rules, really should have been interviewed on Monday or Tuesday, whenever it was. We have adapted them to fit, in that particular instance, I presume, the availability of the person.

It seems to me that if there is unanimous agreement on changing the rules, to the extent of our making the decision subsequent to as opposed to immediately following the interview, it eliminates one of the problems of people potentially voting on the appointment of people they have not interviewed. I do not know what it does procedurally, whether it is something we can do.

The Chair: Procedurally it is something we can do. If there is unanimous consent we can move in that direction.

Mr Silipo: Perhaps I will just raise that and people can think about that over the break.

The Chair: I think, as I suggested earlier, if we set aside some time next week we are going to have a number of things we can talk about—this is certainly one of them—rather than being pressed for time, as we are now, with the subcommittee meeting coming up in a few minutes, so that we can have a very lengthy and detailed discussion on what we would like to see occur and how we can go about doing it.

Mr Grandmaître: I have just a short question. Is Mr Silipo suggesting that we make an exception in that one case only or that we change the process?

Mr Silipo: Both. I certainly would suggest, for the one this afternoon, that it would be more appropriate to make the decision this afternoon rather than next week. I also think there is a lot of merit to our changing the rules to doing it that way. The reason I raise it now is because it would have implications for our slotting of time, but that is something maybe we can come back to. I gather from what we have been given that the list of potential appointees to be reviewed for next week is not that long. There are only two, so the most we could be doing is two hours of that, so it is not as big a problem for the near future.

Mrs Marland: In all likelihood I will not be here when you discuss the process next week. It is unfortunate because the people who might be here discussing the process next week may not have been part of it this week. In saying that, I would prefer, if I were to continue, that we leave it as it is so that if there is an exception—I do not think it is necessary to leave it over a weekend. It is a scheduling thing. I think to leave it over one day makes sense.

It is interesting, because the first day I realized we were doing that I said to you, "Oh, we're not going to make the decision now," and you said "No, we decided we would do it the next day," and I thought, "Well, you know...." Now, based on my experience I see that as a good thing because then over that period of time when we are all as busy as we are, at least that gives me 24 hours or 12 hours to go over their biographies and review, and if I want to do any research about that commission after having met the person I have that added time to do it. I see that as an advantage.

Mr Perruzza: If I can just make a comment, I like that process too that we are following now. I know there are some deficiencies inherent in it, but I am finding that the next day the nominees themselves are not here and the other people waiting to be interviewed are not here either. I think you would run into a problem. They can be here because the door certainly would be open to them and they would be able to attend, but to have a frank discussion and a vote when they are not here is fairer to them.

I would be inclined to support the idea where if I sit in on the interview and I cannot attend the meeting the next day, or whenever you are going to be voting on the matter, I would like to give a proxy to one of my colleagues. I would support that kind of an idea, but I would be a little nervous about voting and having a debate immediately after we interview the individuals while they are still here and the following appointment is here as well.

The Chair: I am going to try to discourage further debate on this. As I said, I will try to do it next week. We will break now and reconvene at 2 pm.

The committee recessed at 1109.

AFTERNOON SITTING

The committee resumed at 1404 in committee room 1.

MADELINE HARDY

The Chair: We are starting off the proceedings this afternoon with the appearance of Madeline Hardy, who is an intended appointee as chair of the Planning and Implementation Commission. Dr Hardy, would you like to come forward, please. Would you like to say anything at the outset briefly or would you simply prefer to get right into the questions?

Dr Hardy: I think I would prefer to answer any questions you have.

The Chair: All right, fine. This was an intended appointment selected by the official opposition.

Mr McClelland: It was?

The Chair: That is what it says on my agenda. Are members of the official opposition ready to begin the questioning?

Mr Grandmaître: Mr Chairman, I have gone through the curriculum vitae and I think she qualifies for the job. Maybe I will pass to my colleagues Dalton or Carman to ask a few questions, if they have a few questions.

The Chair: We can come back later.

Mr McGuinty: Dr Hardy, I guess at the outset you would be aware that there have been problems in effecting transfers of schools from public to separate boards in a number of communities, and particularly in my community of Ottawa. What role do you feel the commission should be bringing to those negotiations, and in particular what skills do you feel will assist in effecting this job?

Dr Hardy: Of course I really have lived this in that when I was director of education in London, Ontario, the new legislation was effected. Then we had to begin to work with the separate school board locally to make all of the kinds of decisions that had to be made, so I really have had experience with starting right from the ground, working with trustees on both boards, getting committees together, getting subcommittees together and working through the myriad of problems that exist.

Of course it has been three or four years now since I have been associated with this at all, but I understand that there are still a few places in the province where there is still some work to be done, although there are many, I understand, where this has been successful, where the process has been successful and things are working well and young people are served well in both school boards and real progress has been made.

I think I do have some firsthand knowledge, and yet I have some distance from it which I think is essential too at this point, that I do not have any emotional involvement with this now. I can assure you of that. I was rather glad not to have that in the last few years, but I have been watching it, of course, from afar.

I think the role the commission should play is one of being very objective, of understanding the situation. I think the commission has to have a complete understanding of education in the province and has to stand back and be ready to receive reports from boards, receive requests for assistance, not always to go in and make decisions but to find people who can help when there are difficult problems.

I think the commission would work in a number of ways and I do not think there is any one way in which you would approach a problem, because each local situation is quite different and you would have to bring different skills and different personnel to each of those areas.

Mr McGuinty: Do you think the commission has any role in compelling a resolution of a problem if the parties involved seem unable, after protracted discussions and negotiations, to resolve it themselves?

Dr Hardy: I think that would depend on how the government views that, whether the government wishes to play that role. I think if it does and if it asks the commission to do that, then that could be done, but I do not think the commission would take the initiative in that without knowing how the government wishes to play that.

Mr McGuinty: You are familiar with the concept of province-wide pooling?

Dr Hardy: Yes.

Mr McGuinty: What are your feelings on that?

Dr Hardy: I do not think I am close enough to that now to comment on that. Province-wide pooling of taxation: is that what you were referring to?

Mr McGuinty: Yes.

Dr Hardy: I am not sure that I know at the moment how far we are along with that.

Mr McGuinty: Okay, thank you.

Mr McClelland: Doctor, thank you for being here today. I just want to briefly solicit a response from you, if I could, with respect to comments that I have heard from trustees and indeed professional educators in the area I represent, which happens to be one of the biggest boards, the Peel Board of Education. There has been a concern that the move towards full funding of separate schools has been at the cost of funding for the public system. Inherent in that, of course, is a sense of, I will not say antipathy but certainly some tensions. I am just wondering how you would see your role, with your broad base in education, the international scope that you have had, in beginning to resolve those feelings of, I will not say lack of co-operation but certainly the tension that may prevent full co-operation.

How would you see the role of the commission in facilitating the collective creative solution—to use a trite but I do not mean flippant phrase—to getting the most bang for our buck out of the education dollars that are available? I know it is a very open-ended question, but I would just be interested in your reflections on that apparent difficulty and that undercurrent that exists from place to place and from time to time, depending on the people involved.

1410

Dr Hardy: I am sure it does. Shortly after 1984 I felt that the best solution would be a sharing of resources, not only of buildings but generally of resources and of personnel. But I understand that in many locations that has not been acceptable. I think that is too bad. I think that still has merit. I think the whole idea of sharing may still have merit and I think that vision or that concept is something I might be able to be of assistance with.

I think also that there may be a place for the commission to be more proactive in being out in the province in certain locations, providing leadership and providing a presence. I think a lot of it is providing a vision for people of what can happen and providing a philosophy or a rationale for what kind of education we want for our young people in two publicly funded education systems now, and what this can evolve to in the future. I think it is certainly something that is evolving and I do not think we have reached it yet.

Mr McClelland: One other question if I might: Dr Hardy, you served as a director of a large school board. Mr McGuinty asked a question with respect to your views on province-wide pooling. If that were to become a reality and the government were to move towards a policy of province-wide pooling, the offset of that is the sense of local autonomy. We have historically built in Ontario an education system that, I will not say gives primacy but certainly tremendous emphasis on local decision-making and autonomy and accountability at the local level.

Do you see a downside in terms of the political process in the sense of empowerment of the local taxpayer, mothers and fathers and people in and of a community who would feel that they were being distanced, who may on the one hand appreciate perhaps the more equitable distribution of tax dollars, but on the other hand feel they had lost their voice and/or influence and efficacy in terms of the local trustees? Also there is the sense of loss of accountability of local trustees in as much as they would be dealing with people's money from across the province as opposed to the local focus? Any reflections on that?

Dr Hardy: If indeed people would feel that way, I do not think that need be the case. In fact I think that local trustees in that scenario could have even more intimate involvement with the real things of education, which sometimes have been sidetracked in favour of the financial matters. So I see that as in some ways, after the initial shock, again, is over, as being a positive thing.

Mr Grandmaître: Because of the fact the loyal opposition insisted on seeing Dr Hardy, I feel compelled to ask her a few questions. Are you still operating your educational consulting firm?

Dr Hardy: Yes, I am, but I have not been as active in that in the last couple of years because I have been very active in London as the chairman of the Victoria Hospital Corp board of directors. That takes a lot of time. It is a large hospital, about 900 beds, so I have not been doing much consulting. The last major consulting that I did was in New Brunswick last summer.

Mr Grandmaître: Have you ever done any consulting for the present government? I should not say the present government, but the former government.

Dr Hardy: Yes, I did. In fact I think one of the most useful contributions I made provincially was chairing a committee in 1985-86 in which I met with 100 families of children who were appealing a decision by the government at that time to take their children who had learning disabilities out of the private schools they were attending, which was financed by the province, and to put them back in the regular school boards. I met with 100 of those families and children and made decisions about their future. That was a real privilege to do that, to meet with those people from all over the province and to help them plan children's education.

Mr Grandmaître: I wish you well.

Dr Hardy: I really enjoyed that.

Mr Grandmaître: Good.

Mrs Marland: I could not imagine reading a résumé of anyone for this particular commission that would be more powerful than your résumé. It is very impressive. Earlier this week we had another appointee-elect as a member of the commission, as you probably know, before this committee, Mr Eckert.

I come from a background of four years as a school board trustee on the largest public board in Canada as well.

Dr Hardy: I remember you.

Mr Grandmaître: Who would not?

Interjection: I would take that as a compliment, Mrs Marland.

Mrs Marland: Mr Grandmaître was not on Hansard, was he?

One of the questions I asked this gentleman earlier this week was about the redundancy now of the commission itself, quite frankly, since it was established almost six years ago with a very specific responsibility. I do not know the answer to that question myself, but I have been asked it so I am asking you about how you see the life of the commission in the years ahead. At what point would an implementation commission be redundant?

Dr Hardy: I think that is fair enough. I thought of that myself when I was asked to come to this interview. I feel that one of the things I would need to do along with the commission is an assessment of the past, what has been accomplished, what remains to be accomplished and whether indeed there is a need for some other kind of body, if at all. But I feel that the commission must have by this time reached a point where there is a new generation of problems coming up which may be quite different from the kinds that were in evidence in the first six years. I see moving on to a new phase of work, which might be looking at problems that perhaps wards are not even aware of at the moment.

Mrs Marland: That is a good answer, I think. Could I ask you what the SEECC report was in 1971?

Dr Hardy: That was Standards for Educators of Exceptional Children in Canada, and I chaired a cross-Canada committee of five people. We developed a set of

standards for the education and training of teachers for special education. In fact, if I may say so, the book is still ahead of practice. Although it was published in 1971, it has never been implemented. It still could be a guide book to teacher education. I implemented it at York University when I went there to start the special education department in 1973. I implemented that model, and as you probably know, Mrs Marland, the York special education program is the largest in the university, with about 10,000 students taking special education, mostly in summer and night schools.

Mrs Marland: It must be rather disappointing to know that 20 years later a very worthwhile reference text, as this report would be, has not been fully implemented. Do you think that is related to funding?

Dr Hardy: No, I do not think so. I think it is related to a lot of kinds of inertia that are in teacher education. I think that is a field that needs a tremendous amount of work. I was in Newfoundland and did a study for the president of the university there from 1987 to 1989. I looked at their faculty of education and wrote a report which they are now implementing, which should make some major changes in teacher education in that province. But it takes will. That is what it takes to do these things. It does not take money; it takes will and vision and desire and wanting to change things.

1420

Mrs Marland: Why do you think in education in Ontario in the last 20 years that there has not been enough in the needs of exceptional children?

Dr Hardy: I do not think it is particularly exceptional children. I think teacher education generally has lagged.

Mrs Marland: But this report is exceptional children.

Dr Hardy: That was exceptional children, that is right. It is the methods of teaching that have not been implemented. I am not saying that there have not been tremendous strides made in working with exceptional children. Oh, my goodness—Bill 85, was it, or Bill 82?

Mrs Marland: No, Bill 82.

Dr Hardy: That was a long time ago. Bill 82 made a tremendous change.

Mrs Marland: Bill 82 made a lot of steps forward, but it has not fully been implemented either, to my observation.

Dr Hardy: No, not in the way it was envisioned, but I think that is the way with most things, and I think, coming back to the commission, that is exactly the stage that extension is at. If we were stalled now, there would be a lot of things left undone.

Mrs Marland: You have come from the public board system.

Dr Hardy: That is right.

Mrs Marland: You have been gone from the board—

Dr Hardy: This is my 5th year.

Mrs Marland: That you have been away from the board.

Dr Hardy: That is right.

Mrs Marland: So you were not involved with John Fraser and the group that headed the Ontario Public Education Network.

Dr Hardy: That was just starting as I was retiring, yes.

Mrs Marland: OPEN is what I am referring to.

Dr Hardy: Yes, but I never belonged to that. That was just beginning.

Mrs Marland: That was interesting, because John Fraser was on the commission. He was a charter appointee to the commission, and obviously saw some needs and some concerns from that public board perspective. I think the great thing about having you here today for this appointment is that you are from the public board perspective originally, and now I can see, because your experience in education has become even more diverse than it was, and the other appointee earlier this week was from the separate board perspective, that with yourself as chair and one new member—I am not sure; how many members are on the commission at the moment?

Dr Hardy: I really have no idea.

Mrs Marland: Do you know, David?

Mr Pond: Six, I believe.

Mrs Marland: Six? I just feel it is very important on all of these boards and commissions to have a balance of experience and in the historical perspective sense.

Ms Haslam: The criteria, if I may, are three public, three Roman Catholic, three male, three female, two French, one public. It is in our background information.

Mrs Marland: Is it? Thank you. Well, I wish you luck, Dr Hardy, in that challenge. It would be very exciting if the commission could fulfil its mandate and recognize other areas that it could make suggestions to the government where there may be very apparent voids that you will discover during your work. I am very grateful that we have people of your calibre who are interested and willing to take on a position like this. Thank you.

Mr Silipo: As I understand it, there will be five of the six commissioners who will be new in the commission. I think there is one member who is continuing. Does that pose any particular problems that you see in terms of the work of the commission?

Dr Hardy: No. In fact, I see it as an advantage because, as I said in answer to a previous question, I see this as a new generation of this commission and I do not think it wants to have too much baggage from the past. I think it needs some historical perspective, though, and I understand that will be provided through Mr McCordic staying on the commission, who was the chair. So that will be a nice carry-through there. Other than that, I see us with a broad new mandate.

Mr Silipo: What do you see are some of the major challenges that the commission is going to have to deal with over the next three years?

Dr Hardy: I think there is some unfinished business of the extension. There are certain areas that still are deadlocked and so I see that as a major one. Then I see the

commission needing to take a fresh look at what are some of the other problems surrounding extension. Some of them I think have not been even uncovered and I would not like to say what they are even until I could get around the country or province and see.

Mr Silipo: This may be a bit of an unfair question, but what do you think will be the reaction out in the education communities to your appointment as chair of the commission?

Dr Hardy: I would hope that it would be positive. I think I am known as a fair person, an objective person. Of course, as the director of a public school board, I played a role. You all know that. So there is that, but that was quite a while ago. I think that it will be acceptable. I hope so.

Mr Hayes: Dr Hardy, there are some areas across this province right now, some problems with some schools with a low number of students and others that are overcrowded. Some of them are in the process of trying to work agreements between the public board and the separate board for accommodation purposes. Do you see a role of the Planning and Implementation Commission in any of these decisions?

Dr Hardy: Yes, I think so. I think we could assist with some of those. I hope we could. I think that is the unfinished business of the first six years.

Mr McGuinty: You spoke of a vision. With respect to the work of the commission, if the vision you have for the commission was fulfilled, what would the end result be? What could we expect?

Dr Hardy: If the vision I have were fulfilled, it would be that the first priority for education in this province would be that every young person received a thorough and well-founded publicly supported education in whatever system it were. The second would be that we would stop being a we-they kind of province and we would be working together towards that end by co-operating. I see that as really the new face that we should be aiming for. That should be objective. It will never completely happen—we all know that—not in my lifetime, I do not expect.

Mr Grandmaître: With the new government it could.

Mr Silipo: We will keep trying.

The Chair: Dr Hardy, I want to ask you a question. You may not want to respond to this in any event, but it in some ways I think ties in with your vision in respect to seeing more sharing. Certainly I think most who entered into that process a number of years ago were hoping that would indeed occur, and it has not to any significant extent, apparently, in many jurisdictions. One of the suggestions that has been made in respect to this concern is the idea of the formation of joint boards. Do you have an opinion on that? Do you think that concept could, would, should work?

Dr Hardy: I think that we are a long way away from that at the moment, but I think that eventually we will have that. I would see that in the long term.

Mr Silipo: I just cannot resist. I meant to say this earlier. I was actually quite interested and pleased to hear your comments on the question of sharing, having represented for 12 years prior to coming here a part of the west end of Toronto on the Toronto Board of Education which has three elementary schools which have been shared sites between the public and the separate school for almost 15 years now and have worked relatively well beyond the initial problems. I sort of have looked at the question, the strong objections that we see in the various parts to the concept of sharing with some element of surprise and disappointment. So I was interested to hear your comments about that. I do not know if your vision can ever come about across the province. I hope at least to a larger extent than presently is the case now that it can.

1430

Dr Hardy: Visions never do unless we have them and work at them. I am pleased to hear about the sharing, where it works, because I think that is the kind of information we need to demonstrate where it has worked.

The Chair: Thank you very much, Dr Hardy, for very concise, direct and informative responses. It is most appreciated by all members of the committee, and we wish you well.

Dr Hardy: Thank you. It was very interesting.

SUBCOMMITTEE REPORT

The Chair: The next order of business is the report of the subcommittee which met this morning at 11:15. I will read it into the record.

"Your subcommittee on committee business met on Thursday 31 January 1991 to consider the selection of intended appointees for committee review and other matters.

"Your subcommittee advises that, notwithstanding paragraphs 3 and 5 of standing order 104(g), it has selected the following for review:

"Selection of official opposition, Monday 4 February at 2:15 pm or Tuesday 5 February at 10 am:

"1. John Martin for up to one hour.

"Selection of third party, Monday 4 February at 3:15 pm or Tuesday 5 February at 11 am:

"1. Maureen Radigan for up to one hour.

"Selection of government party:

"1. Maureen Radigan (previously selected and scheduled)."

The reason we have indicated the two time allocations is simply because the clerk up to this point has not been able to contact either Mr Martin or Mrs Radigan with respect to tying up their appearance times. So we have put both in the report from the committee.

Any questions or comments on the report of the subcommittee? Okay.

CONFERENCE INFORMATION

The Chair: Someone raised the point that I think one of our candidates perhaps attended a conference of Ontario boards and agencies. There have been two conferences of Ontario boards and agencies, one in 1989 and the second in 1990. This information is available for any member of the committee who wishes to take a look at it. There is no conference set for 1991, but the people involved are hopeful that they will indeed be able to schedule one for some

time in the fall. It depends essentially on the volunteer organizers. So this information is available for any member of the committee who has an interest.

DOCUMENT REVIEW

The Chair: Next, I think the statement has just been circulated or it is going to be circulated now, and I will again read it into the record. This is in response to Mr McGuinty's concerns and inquiry of yesterday:

At yesterday's committee meeting, it was requested that I review a particular document, a letter from Ron Ellis, chair of the Workers' Compensation Appeals Tribunal, that was supplied apparently in compliance with paragraph 10 of standing order 104(g).

I would like to begin by reviewing general principles and the purpose of the committee.

Under the new provisional rules, this committee's primary function is to review selected intended appointees and to arrive at a determination. The relevant question, placed by the Chair at the hour of judgement, is, "Does the committee concur or not concur in the intended appointment of this person?"

In my view, any evidence that is relevant to that question, whether supplied by the minister, committee staff, members or whomever, is proper material to form the basis of committee discussion and consideration. The question is how should such evidence be presented to committee.

The standing orders, supported by the Legislative Assembly Act, give standing and select committees the "power to send for persons, papers and things...except when the House otherwise orders." Standing order 105(b).

By paragraph 12 of standing order 104(g), the House has restricted this committee's ability to send for "persons":

"In reviewing an intended appointment, the committee shall not call as a witness any person other than the intended appointee."

However, the House did not set down a parallel restriction on this committee's power to send for "papers and things." Far from being a restriction on our abilities, the provisional rules set out, in paragraphs 1 and 10, the minimum requirements for documentation to be supplied by the appropriate minister. Beyond this, the committee retains the right to send for or receive such "papers and things" as it chooses, subject only to the time limits of the review process.

In examining the particular letter from Mr Ellis, a number of questions arise:

1. Does the letter provide information meeting one or more of the five requirements of paragraph 10? Does it provide: a description of the responsibilities of the position; a description of the candidate search process, or a statement of criteria by which the intended appointee was chosen?

I find that it does.

2. Do the requirements of paragraph 10 specify the format, contents or origin of the materials to be provided? Is a letter from an intended appointee's agency chairperson specifically prohibited?

The answer to both questions I find to be no.

3. Does this committee wish itself to place specifications on the format, contents or origin of materials provided pursuant to paragraph 10? Does the committee want to consider prohibitions on relevant evidence that may arrive unsolicited? I leave those questions, among others, to be decided by committee members as they prepare the report to the House on our permanent order of reference.

This is indeed a ruling by the Chair. It is not open to debate; it is certainly subject to challenge. But what I have incorporated at the end of this, following the ruling of the Chair, is to place a number of questions before the committee which, I suggested earlier, in the time we have allocated next week to talk about process, will give you some time to reflect upon those questions and to get into an in-depth discussion of this and other matters that have concerned members of the committee. I guess we have scheduled Tuesday afternoon for that discussion. Any problems with that process?

Mrs Marland: I do not have any problems with the process. I am being very careful about what I say, because I know this is not debatable and I respect that. I simply want to say that it is really unfortunate that a number of us who have been involved this week on the committee will not be here on Tuesday afternoon.

I know both our two members and I think at least two others will not be here on Tuesday afternoon, because we are all serving on other committees and in some cases the other committees we are serving on are travelling. So it is not like we can even switch for the afternoon within this building with a colleague in order to come back and be part of this debate.

I guess it is just a frustration that I feel, because I think the work of the committee is important and I think this week has been significant for all of us, but I do not see any way that we can get around it.

The Chair: The clerk makes a worthwhile suggestion in respect to the people who are gaining experience even in and out as substitutes and have some views which they would like to be part of our deliberations. When we set aside time to deliberate on our report to the House, which we are required under the temporary standing order to table by the end of May I believe, we can notify all of those members who have substituted on this committee that those discussions are going to take place.

You certainly do not have to be a member to attend this committee or be sitting here as a member or a substitute. If you wish to make a contribution, and I will say this to all of you, certainly the Chair is obligated to recognize you and listen to what you have to offer. The only restriction on that is if there are members or substitutes here who have requested to speak, they take priority. That is really the only restriction placed upon your ability to appear.

There is a bit of a difficulty, I suppose, in administrating and recordkeeping for the clerk, but he is prepared to do that to make sure that everyone who has substituted on the committee is aware of when this discussion is going to take place. Hopefully you and others will have an opportunity to appear and have input.

Mr Grandmaître: One more question before we leave. I feel sorry for Mr Murdoch. Does that mean he will not be back?

The Chair: You feel sorry for him?

Mr Grandmaître: Yes.

The Chair: You will have to ask Mr Murdoch, but I would suggest as a result of what occurred this morning he will not be back.

Mr Grandmaître: Do we need an official letter of resignation?

The Chair: He was a substitute.

Mr Grandmaître: Oh, he was a substitute.

Ms Haslam: Gee, Mr Grandmaître, where have you been?

Mrs Marland: I would like to point out too, for the benefit of the committee, that I spoke to Mr Murdoch at lunchtime and he is not accepting his per diem for today.

Mr Grandmaître: Does that mean we can have a party with that $78?

The Chair: Everyone have a good weekend and we will see you next Monday.

The committee adjourned at 1440.

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Le lundi 4 février 1991

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Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

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Clerk: Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Monday 4 February 1991

The committee met at 1405 in committee room 1.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Vice-Chair: First on the agenda today is the 15 minutes we want to spend to determine whether the committee concurs in the intended appointment which was reviewed on 31 January, so if there is any discussion with regard to that appointment, we will have it at this time.

Is there no discussion? If not, then I would ask: Does the committee concur with the appointment of Madeline Hardy? Opposed, if any? No? Okay.

Motion agreed to.

Mr McGuinty: I have a few comments.

The Vice-Chair: I will entertain them at this time, then.

Mr McGuinty: I wanted to indicate that we will be supporting Dr Hardy's appointment. She has presented herself as articulate. She was candid. She spoke in terms of something we rarely hear today: she spoke of a vision she had with the commission and she certainly evidenced idealism. Again, I wanted regretfully to express the reservations that I have had in the past, that our opinion is limited in that Dr Hardy was only one of a select five out of an original 36 candidates. So again, we have the reservation we make that we have no perspective. We were unable to compare Dr Hardy with others. But notwithstanding that, as I say, we are supporting her appointment.

The Vice-Chair: We will concur with the wishes of the committee. The person with whom we will be dealing at 2:15 is not here so we will recess for five minutes and we will be back when the person comes.

Mr McGuinty: I thought it was this afternoon we were going to discuss some procedural matters. What has happened?

The Vice-Chair: The information I have is that that is going to be discussed tomorrow afternoon.

Mr McGuinty: Tomorrow afternoon. All right, thank you.

The Vice-Chair: We will recess until 2:30. Just do not go away. We may be able to start. The sooner we start, the sooner we will finish.

The committee recessed at 1408.

1412

JOHN MARTIN

The Vice-Chair: I call the committee back to order dealing with the intended appointee as a member of the Workers' Compensation Appeals Tribunal, John Martin. Would you like to take a seat right in front of you there.

Mr Martin, do you have any opening statement you wish to make?

Mr Martin: No, Mr Chairman.

The Vice-Chair: Thank you. Then we will proceed with any inquiries with regard to Mr Martin's intended appointment.

Mr Mahoney: Mr Martin, I have had some discussion with my constituency staff about the appeal process and the fear, almost, or difficulty some people going to appeal have and certainly going on their own. I notice you have made numerous representations on behalf of, I presume, members of your local or of that area to WCAT on appeal. Do you feel there is anything that could be done directly at the appeal level either to relieve the pressure or make it less intimidating for people to come before a group without representation, for example?

Mr Martin: In my experience in dealing with WCAT, I am quite satisfied that at this point there is nothing in the WCAT structure that would intimidate a worker in that the workers' reps and the employers' reps, along with the chair, do an adequate job on assisting workers if they come unrepresented or in fact have poor representation.

The only thing I could suggest is that for years we have argued that there should be a less legalese approach to the WCAT and that we should have more worker representation from an advocacy level. The people who do the actual advocacy role, vis-à-vis representing workers, should actually be doing the hearings. In that way you get from the legalese and you get back to the intent of the legislation as it came into being in 1985.

Mr Mahoney: Would you agree that there seems to be a move by the workers' advocacy office now to involve more people such as yourself, local presidents or staff from MPPs' offices to represent people at hearings because of the backlog or because they are having difficulty getting approval for more staff in doing their job?

Mr Martin: Personally, I could not comment on that. I would not have access to who is being appointed and who is not, but certainly, first of all, to get proper advocacy levels at the worker representation you have to go to the source and the source is finding somebody in the advocacy field who knows workers' compensation in the province. I have not done research or a review on WCAT to say to you that it is headed that way, but certainly it is a good approach in any event.

Mr Mahoney: Would it be more appropriate, if you are going to be sitting on the tribunal with people coming before you—I guess what I am trying to get at is that we make it more user-friendly in some way, and that may indeed fall to the responsibility of the individual members such as yourself, if your appointment is ratified, to make it

user-friendly so that it is not necessary to have all these representatives.

You refer to it as legalese. One of the things that concerns me is that many times the representatives have no legalese whatsoever and yet they are there in a capacity that would seem to indicate some expertise in the area of legalese. I am just not comfortable that the representatives who are representing workers—I am not referring to you; I am just saying in general—that it is appropriate sometimes and wonder why we could not make the system more user-friendly and simpler, which might again cut down on what I understand is about a two-year backlog in cases. What would you do to make it user-friendly?

Mr Martin: If I were lucky enough to be appointed to a position with the WCAT, I would certainly use the expertise and knowledge from on-hand experience in the workers' compensation system of Ontario to make sure that the WCAT would not be as legalese—as it ought to be, in that workers would be comfortable in coming before the panel and that they would be seeing, rather than three lawyers sitting in front of them, people whom they were confident in representing them as workers who have been injured.

Mr Mahoney: Those are all the questions I have for now.

Mr Tilson: I am looking at your experience, sir, and you certainly have had experience in the union area. I guess looking at that background, and you have expressed your concern for the worker, the concern of the other side of the dispute, I guess there is that impression of being fair, unbiased. One looks at one's background and asks, can one be fair and unbiased realizing what one's background is? Do you have any thoughts about that as far as your own personal application is concerned?

Mr Martin: I can only tell you of my personal circumstance. The union I represent in terms—God forbid me saying it, but I am a manager. Through our local union I administer—

Mr Tilson: You do not need to be embarrassed about that at all.

Mr Martin: No, I am not. Four million dollars a year of administrative moneys come through my hand. I administer, in terms of people, 350 health and safety reps, 300 union stewards, a 13-person executive board. We have actually gone before the board and were successful that we did not have to go to WCAT and did management appeals. In terms of the question you raised, Mr Tilson, I believe that the local union I was president of has matured me enough that if I went to a WCAT case and I was asked as a member of a panel to make a decision on the facts and the merit, certainly under section 80 of the legislation I would be prepared and could do that.

1420

Mr Tilson: All right. With respect to just some general questions on your philosophy as to the operation of the WCB, the gist of the overall operation of it and your experience in assisting workers specifically, most of us—perhaps I should speak only for myself, but I can certainly speak for myself—I notice the number of workers who contact my constituency office with problems with workers' compensation. It is described to me as a mess, a bureaucratic mess. Do you have any thoughts on that as to whether you agree or disagree with that?

Mr Martin: I believe that workers' compensation in Ontario, from a bureaucratic point of view, needs dramatic changes and I can give you an example. It may not be what you want, but I will give you an example. We look at an appeals structure system in the province and you go to initial adjudication, continuing adjudication, then you have the first level of appeal which is in writing, then you have a formal appeal and then you have WCAT. My experience is that it is an excessive use of resource. There are colleagues in the labour movement, in the injured workers' groups who would argue with me because you take a level of appeal away.

There is an example where bureaucracy should be reduced and the worker can expedite his ability to get to the top appeal level a lot more quickly when you do away with the bureaucracy within the board. In my view, if you did that you would clean up the initial and continuing adjudication in that the case load of people working so high within the board cannot, from an administrative point of view, take the time or make the proper decision. Therefore, they rely on a review branch to review the mistakes they have made. You do not need that. You could get rid of that. That is my view from the experience I have had.

Mr Tilson: I have one final question and again, I am just trying to determine your philosophy, and that is with respect to disputes. Questions are raised as to whether matters should go to the board or whether they should go through the courts. Should more cases go through the courts as opposed to the board?

Mr Martin: No cases should go to the courts.

Mr Tilson: None?

Mr Martin: None. Workers gave up their right in tort to go to a compensation system in the province 75 years ago, and in my point of view, if the system is working properly there should be no cases going to litigation outside of the—

Mr Tilson: But the system is not running properly.

Mr Martin: —as it exists today. I still believe that no worker should have to go beyond the system as it is written.

The Vice-Chair: Are there any further questions? We like to share the time, if possible. If the government members want questions we would be pleased to entertain them.

Mr McGuinty: Mr Martin, tell me please something of your understanding as to how this tripartite system works. As I understand it, there is a workers' representative, an employer's representative and the chair, a vice-chair, sitting on these. What is your understanding of how that works?

Mr Martin: My understanding of how the system works is that it is a non-adversarial, tripartite structure where workers are represented by the workers' representative, the employer groups are represented by the employer's representative and the chair is a non-biased party who ultimately makes the

decision if the workers' rep and the employer's rep disagree on the facts and merits of the case. My understanding is that my job, if I am successful in being appointed, will be to do the research and fact-finding within the case that is presented to me and make arguments to the chair on things that I believe to be nebulous or grey and if the parties cannot agree on facts.

Mr McGuinty: Tell me, how can you account for the large number, the high percentage of unanimous decisions which are rendered by WCAT? Does that not give the impression, for instance, to labour or to employers that their representatives are letting their side down?

Mr Martin: No.

Mr McGuinty: What is happening there?

Mr Martin: That is indicative of the system working. The more cases you have where you have unanimous agreement, the fewer cases where you have public dissent, is indicative that the three-person panel is working effectively with the legislation and the policy of the board to find a decision on the facts and therefore not have disagreements which would lead to a dissent on the decision.

Mr Hayes: I am looking at your résumé. It is quite impressive; you have been a very busy individual, I see. If you keep working that way, you will probably be able to get through some of the red tape in the board.

What do you think one of the biggest problems is, though? I know that sometimes claims are held up, maybe due to the employer, maybe due to the doctor's report and things like that. Is there something that can be done that way? I have even seen cases where the employer, the union and the doctor have supported a worker and yet the board has actually turned him down, over the years. Is there a way of dealing with those kinds of things, or would you even be involved in that?

Mr Martin: I definitely would. With 1005, by the way, we deal with thousands and thousands of cases a year on initial claims adjudication because of the size. I believe the problem lies within the board's structure at the early stages. The point I made earlier, regarding getting rid of the decision review branch, as an example, would clean up some of the problems and may free some resources up for the board to put more people into those areas who can make proper decisions based on the legislation and the policies before turning them into an appeal. I quite agree that there have been many circumstances where employers I have had to deal with and ourselves have gone to the board together representing the workers and they still deny it. By the time you get to WCAT, the resources—by the way, I do not know if the committee is interested or knowledgeable, but to take a case from initial adjudication through denial, through the whole step, is a horrendous cost to the system. That is where I believe the problem lies and that is where it can be cleaned up.

Mr Hayes: You just said it, that sometimes a union that represents the worker, for example, gets faced with expenses that some of them do not have in their fund. Then of course you have the other avenue, the worker who does not have a representative. It is a big hill to climb for those people. I am sure you are aware of that.

Mr McGuinty: Can you tell me something of the search process that culminated in your appearing before us? How did you end up being considered for the position, do you know?

Mr Martin: I actually applied to the tribunal myself, initially. I do not know how I got here today. All I know is that my case went forward, however it does in government, and I was requested to come here today and sit before the government agencies committee.

Mr McGuinty: You submitted an application to the tribunal directly?

Mr Martin: In December.

Mr McGuinty: Was that an application form or just a letter?

Mr Martin: I submitted a letter. I do not know if it is in your dossier. It starts off, "Confidential to Ron Ellis."

Mr McGuinty: That is okay. Do you know anybody else you may have been up against in terms of a competitor for this position?

Mr Martin: I have no knowledge of whom I would be competing with here at all.

Mr McGuinty: So you submitted the application, and the next thing you heard was—

Mr Martin: I submitted the application and then I got a phone call from Mr Arnott, from the clerk's office, asking me to appear here today. I asked why and he submitted me the legislative policy on the standing committee on government agencies, and I appeared here today for review.

Mr McGuinty: You did not hear anything else about the job in the interim, between hearing from Mr Arnott and submitting the application?

Mr Martin: No, I heard nothing from either WCAT or from the government, except for Mr Arnott.

The Vice-Chair: If there are no further questions, I want to thank you very much for taking the time to come today and appear before the committee.

1430

MAUREEN RADIGAN

The Vice-Chair: The next witness is here with regard to the intended appointment as member of the Planning and Implementation Commission. Would the committee wish to proceed at this time instead of our intended time of 3:15? If that is agreeable, we would proceed and ask Mrs Radigan, if she is prepared, to come up to the chair the gentleman just left. If you have any opening statement, we would be pleased to hear it. If you have not, I am sure some of our members will have some questions they would like to ask you. Welcome to the committee.

Mrs Radigan: Thank you. I do not think I necessarily have any opening statements, but perhaps I could reserve a comment for following?

The Vice-Chair: Sure. We have an hour set aside. We may use part or all of it.

Mrs Radigan: I do not think I will take—

The Vice-Chair: That is fine. Maybe the committee will not, either. Are there any questions from any of the committee members to Mrs Radigan?

Mr Grandmaître: I might as well start off. You are currently a real estate agent?

Mrs Radigan: Apparently.

Mr Grandmaître: I see. There is not much happening.

Mrs Radigan: Not recently.

Mr Grandmaître: How long have you been in real estate?

Mrs Radigan: Since 1967.

Mr Grandmaître: Is that right? Very interesting. I am a broker myself but I had to let go of my licence. I am glad I did, though.

What do you think of the province-wide pooling system the ministry is thinking about right now? What do you think of it?

Mrs Radigan: Is it Mr Grandmaître?

Mr Grandmaître: Call me Ben. It is a hell of a lot easier to remember.

Mrs Radigan: You are going to have to tell me what you are talking about. The province-wide pooling system?

Mr Grandmaître: I was talking about the assessment, the pooling of residential, commercial, industrial, farm assessment and so on and so forth; that you would pool all of those assessments and distribute the dollars to the public system, the separate system and so on. It is a very complicated system.

Mrs Radigan: I am glad I brought a copy of what I submitted. Maybe I had better give a preamble. I was away on vacation, and on about two hours' sleep I got a phone call asking if I would allow my name to stand for PIC.

Mr Grandmaître: Who called you?

Mrs Radigan: Betty Moseley-Williams.

Mr Grandmaître: She must be a great gal. I do not know her.

Ms Haslam: He was hoping it was the Premier.

Mr Grandmaître: No, I am sure he would not spend his time—

Mrs Radigan: After a bit of dialogue and some information and background on what she was referring to—being very honest—I said: "Sure. Why not?" Then I got a call from a gentleman asking for a résumé within an hour, so I put something together and got it over here. Since then I have tried to find out what this is all about.

As far as your question about the pooling of assessment is concerned, I have to dig deep. I was a trustee for 16 years but that was a long time ago. It is almost ancient history now. I went off the board in 1981, and it is since then that Bill 30 has come about. I know we were always striving to get equalization of assessment, but all the legislation I do not know. I think it is a good idea.

Mr Grandmaître: Do you know anything about the Planning and Implementation Commission?

Mrs Radigan: Only that it deals with the distribution of resources in existence now that have been affected by Bill 30, in other words, sharing and transfer of facilities. From what I have been able to gather, that is what PIC is all about. It is a commission that helps to resolve those problems, hopefully, that still exist. I gather from the news recently that there are some problems still existing.

Mr Grandmaître: How did you submit your name to be a candidate for this position? Was it through an application, through a letter, through a phone call?

Mrs Radigan: You do not have anything before you?

Mr Grandmaître: No, we do not.

Ms Haslam: Yes, you do. You have a résumé.

Mrs Radigan: I was asked by Bernie Turcotte, the executive assistant for planning services at the Mowat Block. He was the gentleman who phoned me two weeks ago and asked me if I would please submit a résumé. Not really knowing what you wanted, you have a basic employment résumé with a covering letter to Mr Turcotte. If it would be any help, I can tell you something about myself.

Mr Grandmaître: I do not have this letter to Mr Turcotte. None of us has.

Ms Haslam: It is behind the John Martin one. If you have John Martin's application, then you have this one.

Mr Grandmaître: Why do I not have a letter from John Martin?

Ms Haslam: It is there. He just is not looking in the right—

The Vice-Chair: That letter is not going to have that big a bearing on what we are discussing.

Mr Grandmaître: No more questions.

Mr Mahoney: From your résumé, I notice you were a trustee on the Hamilton-Wentworth Roman Catholic Separate School Board for some time. You were a governor on the board of governors of the Hamilton Catholic high schools. You have been actively involved in the Catholic school system for a number of years. When you put that together with the requirements of the Planning and Implementation Commission, do you feel you bring a bias that might create some difficulties for you in making decisions, particularly when we get into some of the disputes? Right now we are running into one in Essex and there have been others in other areas. I am just wondering how you would handle perhaps an accusation by somebody on the public board that you have a bias because of your background with the Catholic school system.

Mrs Radigan: First, I do not think it presents a bias. My most recent employment required that I not have any biases whatsoever—not having to do with the school system, of course—and I think I managed quite well to be apolitical. I think my background probably would give me a better understanding of historically what is involved here. Not having been on the board in recent years pretty well removes me from any direct biases, because people who have been involved or are involved are new. Quite honestly, even as a member of the school board back in

ancient history, I feel I was able to maintain an unbiased position in handling ratepayers and other board members.

1440

Mr Mahoney: What do you say to mom and dad who come before your committee, let's say, and say: "We've had all our kids educated in Walnut Grove Public School and now you're going to turn it into Our Lady of Fatima Separate School, except for part of it. We're upset about it. We don't want that to happen"? What do you say to those folks?

When you look at Bill 30, the commission's job is to advise the minister about the specific means by which the policy of full separate school funding can best be implemented. I do not know if the day will ever come when separate school funding will finally just be accepted as reality and we probably will not need this committee. It seems to me that day should come; there should be a sunset period when we say we have arrived. I am speaking as a supporter of Bill 30; do not misunderstand me.

Mr Jackson: It does have a sunset. It has five years to go.

Mr Mahoney: Thank you. We will probably find it gets extended. In any event, what do you say to those parents and how do you deal with that issue?

Mrs Radigan: I think I would like to know what the actual issue is. I want to know all the details.

Mr Mahoney: Sharing facilities.

Mrs Radigan: I realize that we are talking about sharing facilities. You are saying "sharing facilities"; it could be transfer of facilities, it could be whatever. I think that has to be dealt with with facts. I am not going to tell you what I am going to say to these parents unless I have seen what the circumstances of that particular community are. I want to know what the feeling of the separate board is. I want to see what the feeling of the public board is. I want to know who is going to be disturbed or disrupted, not only the students but also the staff. There are a lot of questions that would have to be asked before I would give you an answer to your question right off the top of my head, because I do not know how I would handle a particular situation without the facts. I am not in the habit of talking too much off the top of my head. I think well on my feet, but I usually like to have my facts before I do.

Mr Mahoney: I guess what I am trying to get at is some kind of—there are so many issues that revolve around the separate school funding.

Mrs Radigan: Sometimes sharing is a good idea; sometimes it is not a good idea.

Mr Mahoney: So you would not necessarily be hard and fast on a rule that—

Mrs Radigan: No, I could not. I think each case has to be individually mediated by itself.

Mr Mahoney: I am going to ask you to go with me a little on the question Mr Grandmaître was getting at, because it very much is an issue that revolves here, too. The issue of sharing assessment within a region or within a school district, sharing it equally between coterminous boards is one issue, but there is also the issue of the gate equalization mentality where the wealthier communities' assessment goes into a provincial pool and is then distributed throughout the province to the communities that do not have that wealth. Of course, there are some very strong feelings, you can appreciate, in some of the higher-growth areas against that kind of provincial pooling. But this committee, it seems to me, could find itself in a position recommending one way or the other or getting caught in some—I am hearing noises as my colleague shakes his head.

Mr Jackson: It does make a noise when I shake it.

Mr Mahoney: Yes, that is what I was hearing. But I am not interviewing the honourable member, I am interviewing the applicant and would be more interested in hearing noises coming from her and not him.

Mrs Radigan: I do not really think, Mr Mahoney, that—

Ms Haslam: It rhymes with baloney.

Mr Mahoney: I will not say what Haslam rhymes with.

The Vice-Chair: Just excuse some of these people.

Mr Mahoney: Mr Chair, I am here trying to do a job and I am being interrupted all over the place.

Mr Jackson: You are in the wrong committee.

Mr Mahoney: This is general government, is it not?

Mrs Radigan: I do not think this government has much to do with actual financing of education and I do not really think PIC would be asked at this time, without some further legislation or direction, to deal with finances.

Mr Mahoney: It is fine to say that with—

Mrs Radigan: No, I am serious. Corporate assessment is a totally different issue, I would think, than what we are talking about on the PIC.

Mr Mahoney: It is my submission to you—this is what I am attempting and, I think, what Ben was attempting to get at—that if it happens that a situation occurs where people try to tie in that kind of provincial-pooling assessment—because very much they go together; you can say, "It is not my job" all day long, but people are going to ask—I think it would be important for you, as a member of that committee, to understand the issues.

Mrs Radigan: I think I would want to find out the minister's direction on that sort of thing.

Ms Haslam: The responsibilities of the commission, one of them, is to assist both public and Roman Catholic school boards to deal with issues relating to or arising from extension. I wondered if you would elaborate on something in your background that would help you do this, in assisting both public and Roman Catholic school boards to deal with issues relating to or arising from extension.

Mrs Radigan: My experience has been a lot with negotiations. Very early, I was with the public health department, so I was doing a fair bit of negotiation as a nurse with families as it would relate to various questions. That is ancient history. On the school board, I was the chairman of finance, for Mr Mahoney's benefit. I know a little bit about it. I was on salary negotiations for teachers and maintenance staff over

the years. So I have experienced the come and the go. On behalf of our board, I have presented briefs to Mr Robarts and also to Mr Davis—that is telling my age maybe—regarding various aspects of the need for facilities, so I have had it from the other angle. I have been the parent, I have been the seeker of goodies from the government. I think that I can sit on this committee with probably a very good working knowledge from both sides and both perspectives. Does that answer your question?

Ms Haslam: Yes, it does.

Mrs Radigan: And I have been in negotiations in real estate; not recently.

Ms Haslam: That was the other thing I had noticed. You had negotiated with municipal officials, schools, traffic safety. I just wondered if that was what you felt would be best in this particular area.

The other thing—and this is maybe an unfair question—it says, "ensuring that all teachers and other employees are treated fairly as enrolment shifts from the public system." I wonder if you could comment on that particular item also.

Mrs Radigan: Yes. I can see that being one of the bigger problems down the road. The initial problems that this committee experienced, I am sure, were the immediate transfers of some of, particularly, the French-language schools. How successfully or unsuccessfully that has really happened, I will be very honest. I have been somewhat removed from school business and I have suddenly become just a casual newspaper reader, so I really do not know how well some of it has worked. I know locally some of that has not worked to everybody's satisfaction, but they seem to have resolved problems. I just saw yesterday on the news that they are having a problem in Essex, as Mr Grandmaître suggested. I would have to—you know what? I have got sidetracked.

1450

Ms Haslam: Let's look at that then. You view it—or maybe you do not view it. Do you think that would be an asset or a detriment, that you have been away?

Mrs Radigan: I am sorry. I lost my train of thought and I apologize.

Ms Haslam: Yes, you did; about the enrolment shifts and about teachers.

Mrs Radigan: The problem is going to be in the future with, particularly, staff in the public system. As their numbers decrease in some areas, in some communities, and the separate schools' numbers increase, I can see that one of the problems this committee is going to have to resolve is that those who are not lost by attrition because of early retirements or whatever are going to have to be given positions within the school system.

Ms Haslam: You said you have been away from it a while. Do you see that as an attribute or a detriment to taking your spot on this commission?

Mrs Radigan: I think of it as an attribute really, because I am not that close to it that I have strong feelings as to what should happen. I expect to be able to deal with this committee on a non-partisan—strictly on the merit of the individual situation.

Ms Haslam: Great. Thank you. That is all I have at this time.

Mr Jackson: I should tell the committee that I know Maureen Radigan. I have known her for quite a few years. I say that up front because I am familiar with her work as a trustee while I was a trustee in a neighbouring board and in the real estate profession when I was the chief executive officer of the Metropolitan Hamilton Real Estate Board.

Putting that aside, I do want to pursue a couple of areas. First of all, Maureen, you would be familiar with the fact that Hamilton-Wentworth and Metro Toronto are two jurisdictions in the province which have signed off their property matters as they relate to Bill 30. They are the only two communities that have signed off the 10-year window. They have signed off because of a variety of reasons, but one might speculate that, with your real estate licence, you might be called upon to draw unfair conclusions about the impact of the loss of a school in a certain area to property values. But in your own jurisdiction which you are coming from this would not be a factor, because all the property matters have been decided within your own jurisdiction, should you wish to continue selling real estate. Would you concur with that?

Mrs Radigan: I had not even thought about it.

Mr Jackson: No. If we look at the references for this job, it implies that one should be at or near retirement. One would presume that has something to do with gaining financially.

Ms Haslam: Is that in here?

Mr Jackson: Yes. If you want I will bring it. "Selection from people associated with education who are retired from their lifetime career function. This might limit the possibilities of conflict of interest."

Mrs Radigan: In other words, that would be if I was a director of education, I would assume, or an active school—

Mr Jackson: I have a lot of background with PIC and I have a lot of background with Bill 30. It was helpful in doing all the public hearings, and I have also been involved in negotiations with respect to property transfers. Invariably, the largest single argument is, "You've devalued our property values because you're closing a school or transferring a school."

It strikes me that you bring certain credentials helpful to that debate so that you can clarify that, but that it might form a possible conflict of interest by virtue of marketing in that area. We have had, for example, real estate agents move into an area and state, "You may want to sell now before they close the school." Do you understand the nature of the concern? It has been raised.

I am just simply suggesting to you that since there are three things that are substantive which PIC is called upon to do and since you are specific to the geography of the Hamilton-Wentworth area, the issue of transfer of schools will not come up during the remaining five or six years left for the commission, because they have all been settled in

Hamilton. That was my only point I wanted to share with you.

Mrs Radigan: I was not aware of that and I appreciate the information.

Mr Jackson: The other two issues have to do with sharing of resources and the transfer of personnel. Those are the three basic hot issues, issues of contention on which PIC represents itself as final arbitrator so that this not at the feet of the government to deal with all the time. So could you share with us—this is part of the point that Ms Haslam was referencing—those skills that you have that might assist you with respect to the transfer of personnel, which is a contentious issue? The act requires the transfer, and/or the issue of sharing resources, which—in some jurisdictions in this province, there is wide variance between what services are being shared between coterminous boards, in the best interests of economies and so on. Sometimes it is mandated by the PIC because there just are not sufficient resources to achieve the individual ends.

Mrs Radigan: First of all, there is the matter of the economy, practicality. I have always felt that sharing is a good idea, particularly expensive programs and particularly in a smaller community, where it would be astronomical to try to duplicate programs. It does not make economic sense. If the numbers are small, it would be detrimental actually to the students, because certain programs could not be offered if they were not shared.

Mr Jackson: My final question would be, you are not currently contemplating, nor do you envisage, offering yourself as a trustee in the coming municipal election at this point in time?

Mrs Radigan: I do not, Mr Jackson.

Mr Jackson: That is a most appropriate question to ask.

Mrs Radigan: It probably is.

Mr Jackson: Yes. So I am pleased that you shared that with us. Thank you very much. It is good to see you again, Maureen.

Mr McGuinty: Have you been involved to any extent whatsoever in the field of education since your retirement from the board, in 1982, was it?

Mrs Radigan: In 1981-82. Have I been involved in education in any way?

Mr McGuinty: Yes.

Mrs Radigan: I have been learning other things.

Mr Jackson: Wish we could say the same for us.

Mr Mahoney: You have to listen first.

Mr Jackson: You are still in the wrong committee.

Mrs Radigan: I have not been involved in schools per se, other than educating my own children, and I have been taking some courses myself.

Mr McGuinty: You referred earlier to a Ms Moseley-Williams. What is your connection with this person? Why did she come to phone you?

Mrs Radigan: Why did she come to phone me? I wondered the same thing, but she lives in North Bay and she is president of the Ontario Separate School Trustees' Association. She indicated to me that my name had been recommended to her from several sources as somebody who they thought would be an asset to the PIC, somebody who could look at the questions equitably and fairly and not be too ruffled by a lot of panicked people. She twisted my arm, basically, sir.

Mr McGuinty: Do you know of any others who may have been interested in the same position?

Mrs Radigan: None whatever. I did not inquire and I honestly do not know. In fact, it was not until yesterday that I found out how many are on the committee. Is it four or six?

Mr McGuinty: Six.

Mrs Radigan: So I still did not know. Sorry about that.

Mr McGuinty: Thank you.

1500

Mr Tilson: You are a taxpayer, you are a parent. The issue of the extension of public funding to Roman Catholic schools has been controversial, to make an understatement.

Mrs Radigan: I agree.

Mr Tilson: Yes, and in my looking around the province now, one of the concerns is of course the issue of taxes and the quality of education, both in the separate school and the public school boards, that there is insufficient funding coming to both boards. The Minister of Education has made statements that the money is not there because of the recession and yet admittedly there is certainly substantial duplication of both boards. You are nodding yes?

Mrs Radigan: Yes, I would assume so.

Mr Tilson: Going on this commission, you have been asked to do it. You have been sought out, as opposed to seeking it out yourself. What have you got to offer? How can you improve the system, acknowledging this problem? I know I have read your qualifications, but I am looking at your philosophy as to how the system can be improved. You are being asked as an adviser, so what is your philosophy?

Mrs Radigan: Can I give you an example?

Mr Tilson: Sure.

Mrs Radigan: First of all, I think extension is long overdue, if I may make a statement, so I am showing a bias from that point of view. But all three parties agreed that it should go in, so I assume that we are all in agreement that it was overdue.

Mr Tilson: I am not going into past history. I guess I am looking at what we have now. We have, admittedly, a duplication. We have a problem of insufficient funding going to our education system. My question to you is, as an adviser—and that is what you are being asked to be—what is your philosophy? How do you propose to advise the government?

Mrs Radigan: I am going to have to look at each individual case. I would like to give you an example. It is a personal example.

Mr Tilson: Let's look at the subject of duplication.

Mrs Radigan: I was on a school board for 10 years. I was defeated. I should not have been defeated, but I was.

Mr Tilson: It happens to the best of us.

Mrs Radigan: Right, and it was at that point in time that I did get involved in real estate. The school board at that point had received approval of funding to build a high school in the city of Hamilton in a location—this was the separate school board and I was a separate school trustee—that in my opinion would not serve the needs adequately of the students that it was wanting to serve. In my mind, there was a principle involved. I am a taxpayer; it was taxpayers' money that was being used. The school would be built, fine. There were two public schools that were close enough that there would be no reason to build a separate school where they got approval to build it. I got back on the board to reverse the decision that had been made. I fought in the next election and fortunately was successful in being elected, and I only stayed for two terms until I saw that completed.

The government had preached sharing for a long time. They had wanted us to share a school that we did not need because it was way out of where we needed a school. I fought the government so that we could obtain a school where we needed it and not share a white elephant that had been built by the public school board. Mr Jackson would know the one I am talking about.

Mr Jackson: I know the school.

Mrs Radigan: I fought against sharing in that particular instance because it was not serving the purpose it was intended to serve. But also, because I felt very principled about the issue, I got back on the board so that we could now ask the government to share with us.

The government had a teachers college at McMaster University—

The Vice-Chair: Mrs Radigan, would you stay closer to the mike, please?

Mrs Radigan: So basically I went back on the board next time around with a purpose in mind and when that purpose was achieved I retired and went back to pursuing a career in real estate. What I am saying to you, in kind of an odd way, I suppose, is that I feel very principled about things and I like to have a reason for the decisions I make and I like them to be conscientiously made.

Mr Tilson: I understand all that and I am simply looking at the statements being made around the province that duplication is going on, whether it be in transportation, staffing, buildings. My goodness, in the riding down the table here there are two school board administrative buildings facing each other. I do not know whether it is your riding or not, but it is darned close.

Mr Mahoney: No, it is my city.

Mr Tilson: I am not saying whether that is good or bad, but there are statements of duplication that are in existence now and I would like to know what your philosophy is on that subject, as to whether the duplication should continue and, if not, what your recommendations are.

Mrs Radigan: In the present real estate market, I would not suggest dumping schools to an open market, if that is what you are looking for.

Mr Tilson: I am not asking what you will not do, I am asking what you will do.

Mrs Radigan: I think the buildings should be utilized, but if you are telling me that we are heating two plants and you have fewer pupils in each school, something has to be done. I do not know. Do you rent out half of your school for another purpose? I am not aware of a particular community, and that is why I say I have difficulty without knowing the specific instance in answering that question.

Mr Mahoney: Just to go back to the search criteria, item 8 says that, "Since Bill 30 issues cover a wide range of problems nominees should be familiar with and have had some experience in education that not only relates to program but also to governance and finance as well." I think that is the area I and Mr Grandmaître were coming from on the issue of the pooling.

Let me ask you, with regard to the whole issue of capital facilities, it is some time since you have been on the board. Are you familiar with the lot levy issue, the legislation that was brought in recently and the impact that that has?

It may not relate directly in certain circumstances, but like the pooling issue, they are all issues that relate between coterminous boards and I would suggest that you might want to get up to speed on that. It may well come up at some situation that you have to face.

Mrs Radigan: You are talking about the builders' levies?

Mr Mahoney: Yes.

Mrs Radigan: I am aware of them. I assure you that if I was appointed to this committee, I would have to do some homework very quickly.

Mr Mahoney: I think there is a tendency on a committee such as this—when you look at the search criteria you can see what they are looking for—to deal with a very broad range of issues, certainly the sharing issues and all of the direct related issues. Francophone issues, all of those things that relate under Bill 30 will be a primary concern, but I think the other issues that have been mentioned here by my colleague and myself could also be of serious concern. They are looking for you to give advice to the minister when disputes arise in that area.

The Vice-Chair: Are there any further questions? There being no further questions from any of the committee members, I will ask one final question. It has not been asked this round and I am curious. The person who had indicated by phone to you with regard to the position, I would presume it was not because of your political affiliation that you would get the phone call.

Mrs Radigan: I would not imagine so. I think it would be because I have been a separate school trustee in the past.

The Vice-Chair: I asked that question because I wanted that on the record for your own benefit.

Mr Perruzza: On a point of order, more than anything, Mr Chairman: I do not understand the question and the way you worded the question by suggesting that a phone call was made to an individual asking her party affiliation before she were brought forward before us. I can understand your asking the person if she had belonged to a particular political party or contributed to a particular political party, but to suggest that somebody is making phone calls and asking people on the phone what party they belong to before they come before us—I think that is a little inappropriate in the way the question was worded to the individual. I make that comment. I think it is fair game to ask the political affiliation and the contributions in the past and that kind of thing.

1510

The Vice-Chair: Do you have any questions for the witnesses before us?

Mr Perruzza: Sure, I will ask the question. Have you ever belonged to a political party or have you ever contributed to a political party?

Mrs Radigan: I will answer that, but first, may I ask a question?

Mr Perruzza: Yes.

The Vice-Chair: It is not usually in order to ask questions of the Chair. But you could ask a question for clarification.

Mr Jackson: Pose the question in your answer to Mr Perruzza. Just answer the question with a question.

Mr Grandmaître: Do like we do.

Mrs Radigan: I am out of practice. Yes, I was a contributing member of a political party, but my most recent appointment required that I be apolitical. Because of that, I am and have maintained my apolitical status and am not a card-carrying member of any party. I find the question rather interesting, because I thought it was policy of the present government that this is one question that cannot be asked of persons.

Mr Grandmaître: You are absolutely right.

Mr Perruzza: Which party, I think, for the record?

Ms Haslam: On a point of clarification, Mr Chair: This question has been asked by a number of people from other parties. It seems to be the pet question, as Mr Perruzza was indicating. It seems to be asked all the time. Whereas he agrees they have the right to ask that question, he does not agree with the way it was asked in this particular area.

The Vice-Chair: That is right.

Mr Perruzza: I asked the question and you said that you had been a member of a party and you had contributed to a party. Which party?

The Vice-Chair: She does not have to answer that.

Mrs Radigan: Actually, I am not ashamed of it. I was a Liberal.

Mr Perruzza: Thank you.

Mr Grandmaître: You should not be ashamed of it.

Ms Haslam: Do you feel that this particular question had any bearing on your capabilities to handle the position that you have applied for?

Mrs Radigan: This last question?

Ms Haslam: Yes.

Mrs Radigan: None whatever.

Ms Haslam: Thank you very much.

Mr Mahoney: The question is irrelevant.

Ms Haslam: It has been for a week and a half.

Mrs Radigan: But no one has answered my question.

Mr Jackson: What was it?

Mrs Radigan: It is my understanding that the present government's policy is that this question is irrelevant and immaterial as it relates to appointments.

Mr Jackson: I think it is appropriate to indicate a couple of things. First of all, the applicant put it very clearly in her résumé that she has worked actively in federal, provincial and municipal elections. There is no intent to hide that. Therefore the question, with the applicant indicating an active political involvement, was framed in such a way as to assist the person clarify that there should be no shadows. I think it was extremely well handled. If one were to read the résumé even more carefully, one would be able to link the appointments to the political parties of the day. Without knowing Maureen, you could tell that her past involvement was with the Liberal Party. It does not take a rocket scientist to have figured that out.

Mr Mahoney: It is good we have not got any of those.

Mr Jackson: Apparently not with at least one member of the committee. But anyway, having said that, I think that in this case it is certainly not an issue from my knowledge of the individual. I think it bears repeating that John Martin had no reference in his application and it did not come up. But where an applicant specifically puts it in detail, I think it is fair game to be discussed in the manner in which it was discussed by the Chair. I hope there is at least agreement from the committee on the manner in which the Chairman handled it, because I thought he handled it extremely well.

Mr Hayes: To Mrs Radigan, I think you are right that as far as this party is concerned or this new government is concerned, we are only interested in putting people on boards who have experience and are very competent people. I think that we had a confession from one of the members from the past government, which you used to support a while back, more or less confessing that they did things badly over the years. I think they were of the opinion that this government was only going to appoint New Democratic supporters and I think that we are proving that that is not the case. We certainly welcome you being here today for this interview. I just thought I would clear that up. Some members raise that question and other members feel, "Well, if they raise it, maybe we should all raise it," and it has got to be a little bit of a game, so there you go.

The Vice-Chair: The Liberal Party has 30 seconds of its time left.

Mr McGuinty: I certainly want to agree with you, Mr Chair, in terms of the propriety of your question. Second, with respect to Mr Jackson's comments and Mr Hayes's comments, I differ in that I feel that asking witnesses who appears before us questions regarding their political background is perfectly appropriate and legitimate if we keep in mind the objective here, and this is in particular response to your question.

Premier Rae, when he made his statement in the House, Mrs Radigan, indicated—and I am reading from his statement—"The time has come to strip away the secrecy and mystique which have always surrounded government appointments. The process must be open to everybody. It must be understood by everybody." He did not indicate some of the secrecy and some of the mystique. I would suggest that if we were to purposely set out to defeat this objective, we would list questions which we could not ask. Therein lies the danger: not in asking the question, but in not being permitted to ask certain questions.

The Vice-Chair: If there are no further questions, I want to thank you very much for taking the time to come here today. I am sure it was another educational experience that you have had. Thank you very much.

Mrs Radigan: I think I asked to reserve some comments until after. It is rather nice to have the question period over before the time of my appointment. My appointment was at 3:15.

The Vice-Chair: We wanted to get you back on the GO train before the heavy traffic.

Mrs Radigan: I think it is rather interesting that we have gone through the process before the starting time, but I would like to thank all of you. It has been a very interesting experience and, as Mr McLean has put it, definitely an educational one.

The Vice-Chair: Thank you very much. The committee will adjourn until 10 am tomorrow when we will review the applications of the two people that we have heard today.

The committee adjourned at 1518.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 5 February 1991

The committee met at 1014 in committee room 1.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

JOHN MARTIN

The Vice-Chair: I call the committee to order. If there is any discussion with regard to John Martin's intended appointment as a member of the Workers' Compensation Appeals Tribunal, I would entertain that at this time.

Mr McGuinty: With respect to Mr Martin, we intend to support his appointment. He has obvious expertise and experience acquired in representing matters relating to employees. That reveals a bias, but that is exactly what the position calls for. To some extent, he is to act on behalf of and to represent employees. Furthermore, in dealing with some of the questions regarding the approach he would bring, he satisfied us that he would bring an impartial approach—that is somewhat contradictory to what I said—in the sense that he understands the importance of consensus and unanimity in the tribunal on which he will be sitting.

I guess my ongoing concern is with respect to the process. He advised us that he submitted an application to WCAT and the next thing he heard was from the clerk of this committee. He does not really understand how he got from that point A to this point B, and neither do we, for that matter. He was not aware of who his competitors were.

Again, subject to those reservations and us not knowing who the heck he was up against, we are supporting his appointment.

Ms Haslam: Mr McGuinty keeps bringing up process, and I keep bringing up the fact that the mandate of this committee is to look at these people. We are not a hiring committee. We are to look at the suggested appointees. We are to say, "Yes, they can handle the job. Yes, they have the qualifications. Yes, they have the experience," and do we concur that they can do the job?

Mr Mahoney: I am just a little curious about those comments. Are we to assume that if this committee indeed did object to someone being appointed, that would be ignored by the government? I presume that if the committee process is to be respected, as it has been in the past, that comments about support and/or reservation about a particular appointment would be very appropriate, whether it is in the process or whether it is with regard to the individual. I would hope that the government members are not suggesting by saying that we are not a hiring committee—presumably, we are a committee to ratify a decision, and if we do have any reservations about that decision, the government would hopefully listen.

The Vice-Chair: If I could draw your attention, members, we are going to be dealing this afternoon with the appointments review process and the procedures.

Mr Mahoney: I noticed that.

Mr Waters: I will forgo my comments, then, until this afternoon when we discuss this formally.

Mr Perruzza: I thought this afternoon's discussion was simply going to revolve around the procedural conduct of this committee, ie, we were going to review whether we vote on particular appointments immediately after the interview or carry on to the next day as we have been doing. I did not think it involved, nor would I have supported at the time, a discussion around what the mandate of this committee is, because we had lengthy discussions on that before we began the interview process. Now to come to a grind in the middle of the process, as we are interviewing candidates and reviewing what we are all about—I see that as a natural evolution within the committee itself. I do not see us having to defer this matter to the afternoon to discuss.

The Vice-Chair: If I could bring to your attention, please, that we are dealing strictly with the appointed member here. We will have a broad range of discussion this afternoon on the very issues you are talking about, but I would like to stick to the subject that is before us within our hour allotment. That is why we are here this morning, to deal with it. This afternoon you can start off bringing up what you have been talking about now.

Mr Perruzza: All I meant was to respond to some of the comments that have been made by Mr Mahoney and Mr McGuinty.

The Vice-Chair: I would like to ask if there are any further comments with regard to John Martin, who is our intended appointee.

Mr Grandmaître: Are we just voting on Mr Martin?

The Vice-Chair: That is right. We will vote on John Martin. All those in favour? Opposed, if any?

Agreed to.

MAUREEN RADIGAN

The Vice-Chair: We will now deal with Maureen Radigan, who is an intended appointed member to the Planning and Implementation Commission. Any discussion on this appointment?

Mr Jackson: In all the years I have been doing interviews with people, I would have to say Maureen had an awkward interview at best, but I really think the problem was in the process before she arrived at the table. I think she will make an excellent candidate, but I was concerned at the manner in which it was handled. If there is anything of interest for the committee to record to help it in its deliberations, it might be the manner in which the ministry

sought her out, and even, I rather suggest, the amount of information it shared with her. Other than that, I have indicated that I have been familiar with the person, but I certainly strongly support her application.

The Vice-Chair: Yes. Those are the very issues we will be dealing with this afternoon.

Any further discussion? If there is no further discussion, all in favour of Maureen Radigan's confirmation?

Mr Perruzza: Could we have a recorded vote on that?

The Vice-Chair: All those in favour, then? The clerk will call the names.

The committee divided on Mrs Radigan's confirmation, which was agreed to on the following vote:

Ayes–11

Coppen, Grandmaître, Haslam, Hayes, Jackson, Jordan, Mahoney, McGuinty, Perruzza, Waters, Wilson, G.

Nays–0

The Vice-Chair: The committee will now adjourn until 2 pm this afternoon.

Mr Perruzza: Mr Chairman, why do we not have the discussion now?

The Vice-Chair: The Chairman will be here this afternoon. The Chairman is ill this morning, as he also was yesterday. The Chairman will be here this afternoon. That will prolong the meeting a little, which will probably make you happier.

The committee recessed at 1022.

AFTERNOON SITTING

The committee resumed at 1408 in committee room 1.

The Vice-Chair: I will call the standing committee on government agencies back to order. When we adjourned this morning, it was anticipated that the Chair of the committee, Mr Runciman, would be here this afternoon for a discussion with regard to the review process and procedures. He is still ill and he is not going to be here this afternoon.

I was looking at the agenda for tomorrow. John Bates, the president of People to Reduce Impaired Driving Everywhere, is going to be here tomorrow morning. It is anticipated that his appointment will probably be about half an hour. He is the only one on the agenda in the morning and we do not have anybody on the agenda tomorrow afternoon, so I would suggest to the committee that we adjourn until tomorrow morning at 10 o'clock and deal with this very important issue after John Bates is done. I would like the concurrence of the committee on that, if that is feasible. If not, is there any discussion you would like to have on that?

Mr Grandmaître: I think it is a wise move. Not that I do not rely on you as a good Chairman, but I think Bob has a whole lot of experience, not only with this committee but a whole lot of experience at Queen's Park. I think we would be wise to maybe accumulate more notes and make them perfect. I think it would be wise to wait until the real Chairman is here.

The Vice-Chair: Any other comments? It has been suggested that we wait until tomorrow.

Mr Waters: I have made some commitments for tomorrow and I think you have one too, at about 5 o'clock around Barrie, so I would be concerned that it did not run terribly late. I knew it was empty and I had made—I think Al and I are headed for the same place tomorrow at 5.

The Vice-Chair: I had indicated in my opening remarks that Mr Bates, I anticipate, would probably only be half an hour, so we would be done at 10:30 with him and then we could go right into the other item at that time. I would presume that the rest of the morning would probably do it or an hour in the afternoon at the most.

Mr Perruzza: Can we not have this discussion now, and if there are some serious reservations about changing the process, where it is felt among the committee that the Chairman needs to be part of that, then we can resume the discussion tomorrow? Because we are here now. We can resume the discussion tomorrow, somebody can move that, and we can have that this afternoon.

You brought us back here this afternoon. I can accept what you are saying, but we can launch into a discussion now and if we run into some serious glitches and serious problems, we can always resume it tomorrow when the full-time Chairman is here.

The Vice-Chair: I am free, whatever the committee wants.

Mr Grandmaître: Mr Chairman, I agree with you. I accept that if we start deliberating today on the process and so on and so forth, and we start repeating ourselves tomorrow for the Chairman, I think we are wasting time. I think we should wait until tomorrow, and let's have an open discussion including the Chairman, because I think the Chairman can play a vital role, with his past experience. I think he can play a very important role in our discussion—and no there will be repetition, no duplication.

The Vice-Chair: Any further discussion on that?

Ms Haslam: I have a time constraint problem tomorrow also, in the fact that I must be out, either that or have a replacement come in for me. In all honesty, I have been here for all of the meetings, I have not missed them, and so I would hate to have to put in a sub for me when you get down to talking process, because I am the one who has been dealing with the process all this time. I do not mind if we do that tomorrow. It is just that it is a time constraint.

The Vice-Chair: Will you be here in the morning?

Ms Haslam: I am here in the morning. If we could have it in the morning and work through lunch and be out by 2 or 2:30, that would suit me fine. As long as I could get some guarantee, then I have no problem dealing with that. But I have been here continually and I would hate to miss the process decision.

Mr Grandmaître: Would starting earlier help you? If we were to start at 9:30 instead of 10?

Ms Haslam: It is a bad day, period. If you start at 10, I have no problem starting at 10, but I have also no problem missing lunch or working through. If we go from 11 until 2 there are still all of the hours in there, we are not missing a big lunch, we are still out by 2 o'clock.

Mr Jackson: I would certainly like to have the understanding that if the medical reports are not favourable for our Chairman, we still proceed tomorrow. It is sort of like a "Gulf watch" here. I would really appreciate it if we could proceed with the understanding that if Mr Runciman does not bounce back, we can bounce along.

The Vice-Chair: That is fine, if it is the will of the committee.

Ms Haslam: Is he that ill?

Mr Jackson: I have no idea. I am picking this up from—

Ms Haslam: I can see that, because you are sounding as if it is a death watch here and I was concerned.

Mr Jackson: The Chair has been giving these rather—they lack in enlightenment but they certainly do not lack in interest—these medical reports of the mysterious illnesses of my colleague Mr Runciman.

Mr Mahoney: I just wanted to point out that tomorrow is the luncheon with the chemical producers around the province for all MPPs and senior civil servants. It is an annual thing. It is certainly in my schedule and I would have thought it was in most MPPs' schedules.

The Vice-Chair: I never got an invite.

Mr Mahoney: You probably do not have anything in your riding that would—do you have a chemical company in your riding? You have a Scud missile.

Mr Waters: The one thing I would like to get clear, and I would like some clarification maybe from the Chair, is the discussion tomorrow. When we are talking about process, exactly what are we talking about? The process as spelled out within the mandate that was sent down, or are we going back into this other bit of rhetoric, where we keep hashing that we want to expand the purview of this committee? Because you are not going to expand it. It was spelled out quite clearly what we are to cover: ABCs.

The Vice-Chair: What I anticipated was going to come out of this review of process and procedure—we have already been through how it is done, but I thought what we would probably be looking at is how it has worked as we have done it now—that is what I thought—and is there some way we can improve on what we have done?

Mr Waters: In other words, this is not going to be a long-drawn-out thing. Unfortunately, I was away last week and I missed the first part of these hearings—

Mr Grandmaître: You did not miss a thing.

Mr Waters: —but coming in yesterday and today, I have seen some frustrations on both sides and I have been frustrated with some of the process. I think we could deal with that process quite effectively and it is not going to take a long time.

The Vice-Chair: Shall we do it tomorrow morning?

Mr Waters: I have no problem with tomorrow morning. I understand that if we do not do it before noon, we all have varying commitments throughout the afternoon starting at 12 o'clock, so if we can do it from 10 to 12, I have no problem with that.

The Vice-Chair: I think that could be arranged. Can I have a consensus that the majority would do it tomorrow morning? Agreed. The committee is adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 1417.

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Le mercredi 6 février 1991

Standing committee on government agencies

Agency review:
Liquor Licence Board of Ontario

Appointments review

Comité permanent des organismes gouvernementaux

Examen des organismes gouvernementaux :
Commission des permis de vente d'alcool de l'Ontario

Révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 6 February 1991

The committee met at 1008 in committee room 1.

AGENCY REVIEW

Resuming consideration of the operations of certain agencies, boards and commissions.

LIQUOR LICENCE BOARD OF ONTARIO

The Chair: Come to order, please. The Chair has been presented with a much larger gavel. I do not know if that is an indication of a lack of order yesterday or what. In any event, our first presenter this morning will be John Bates, the president of People to Reduce Impaired Driving Everywhere.

Mr Grandmaître: Before we get going this morning, is it possible to find out what the total agenda for today is? I know people on the other side have commitments, and I have commitments.

The Chair: It looks like we are going to hear Mr Bates discuss the Liquor Licence Board of Ontario, with questions from the committee. There is no time limit on Mr Bates's appearance. I am advised by the clerk that the discussion on process was delayed until today, so the remainder of the morning could be taken up with a discussion of process. I guess the afternoon, as I see it, is open. We can probably conclude this morning.

Mr Grandmaître: Will we break at 12 o'clock or we will go on from 12 until 2? We did not mention that possibility yesterday.

The Chair: We can make that decision when we approach 12 o'clock. If we feel there is still sufficient meat for discussion we can continue, if we have unanimous agreement.

Mr Waters: Yesterday we had said we would go through, but then some people from the other side had luncheon commitments with the chemical industry or something. It was my understanding that we had agreed to break at 12, that we had come to that consensus.

The Chair: That does not present any problem.

PEOPLE TO REDUCE IMPAIRED DRIVING EVERYWHERE

The Chair: Mr Bates, would you like to proceed?

Mr Bates: First, a background about what PRIDE is. We are a group of concerned citizens, which includes mostly victims of impaired driving. We were formed to further the conviction that impaired driving is criminally unacceptable and to promote appropriate policies, programs and personal responsibility. Our only interest in the consumption of alcohol is the effect it has on impaired driving. Consequently, PRIDE's interest in the activities of the LLBO is limited to the effect its policies play in increasing the incidence of impaired-driving crashes.

We came to the conclusion some years ago that impaired driving is simply a symptom of alcohol abuse; if there were no alcohol abuse, there would not be any impaired driving either. Consequently, we direct our activities at those policies that tend to either increase the availability of alcohol or tend to give young people a distorted view of it, which, of course, lifestyle does.

In our opinion, the LLBO, working under the directions from a cabinet of the previous government has instituted policies which run counter to the best interests of the people of this province. Clearly, if alcohol is easier to obtain then it stands to reason that alcohol abuse is more likely to occur and impaired driving is easier to accomplish.

Let's look at what we are really dealing with here. I think we think this is something like soda pop or something. Let's stop kidding ourselves. Alcohol is a drug. It is as much a drug as cocaine, crack cocaine, heroin or any other drug. It has been observed that if alcohol were newly discovered it would be a schedule S substance. In other words, you would have to go to your doctor to get a prescription to get it. It is listed in the pharmaceutical journals as an addictive, sedative depressant. This is not some harmless consumer product to be sold like a soft drink. Its social costs are 10 times more severe than that of all illicit drugs combined, and many of us do not know that. Just because it is the recreational drug of choice for most of us and it is legal does not in any way make its ravages on society acceptable. "Legal" does not mean harmless.

To take a look at this just by way of background, what does alcohol do? How does it work? Initial relaxation, loss of inhibition, impaired co-ordination, slowing down of reflexes and mental processes—that is reaction time—attitude changes and increased risk-taking to the point of bad judgement in driving a car, flying a plane. Acute overdoses lead to death due to respiratory depression. Its effects are increased by sedative hypnotics.

Its long-term effects include that regular use can cause gastritis and pancreatitis, sclerosis of the liver, certain cancers of the gastro-intestinal tract, heart disease, brain and nerve damage. Upon withdrawal from regular or heavy use, convulsions and delirium tremens may occur.

When we talk about illicit drugs and stuff, we say, "Isn't that awful?" But this is what alcohol does; this is what our favourite beverage does. As we said, it is the recreational drug of choice: 83% of Ontario's adult population use alcohol. Some 9% of the adult population, some 650,000 people, report a serious drinking problem in this province.

Some 6,000 Ontarians died in 1988 from alcohol-related causes, or about 10% of all the deaths in the province were caused by alcohol. Alcohol-related sclerosis of the liver killed 850 Ontarians in 1988, close to 2,000 died from alcohol-related cancers, and 175 from alcohol-dependent syndromes. Adults with alcohol-related problems occur four to seven times more in hospital beds than can be expected in general.

In 1989, 61,000 Ontarians required treatment for drug and alcohol problems, more than double the figure of 1979. The number of treatment programs increased from 130 to 270, with a total cost to us that rose from $44.4 million to $77.1 million.

Alcohol problems result in absenteeism and reduced efficiency in the workplace, costing Ontarians an estimated $1.2 billion a year in reduced productivity. In 38% of all child abuse cases, the perpetrator drank prior to the offence, and 54% of all those convicted of assault, murder or attempted murder had been drinking before they committed the crime.

This is the sad one: Foetal alcohol syndrome is the third leading cause of mental retardation in the world. The third leading cause of mental retardation, and it is 100% preventable. Ridiculous, if we allow this to go on.

Alcohol is involved in 40% to 50% of all fatal traffic crashes, 40% of all boating deaths and 65% of all snowmobile fatalities. Impaired driving is the single largest killer of our youth. Still we let it go on.

There were 137,399 alcohol-related legal offences in Ontario in 1989. There are over 17,000 alcohol-related automobile crashes in Ontario annually. It just keeps on going on.

The average BAC, blood alcohol count, of the impaired drivers involved in fatal crashes is 0.165, or double the legal limit. That is why we say this is an alcohol abuse problem. Nationally, there are 2,500 people killed by impaired drivers every year and another 130,000 are seriously injured or permanently maimed. That means requiring in-hospital treatment.

While we hear a lot of rhetoric about the impact of illicit drugs, the fact is that alcohol is by far the most serious threat. Last year we had 250 deaths caused by illicit drugs. That includes dealers killing each other and overdoses and so forth. By comparison, 18,000 Canadians died from alcohol-related deaths. As we said before, that is about one out of every 10 deaths. The Addiction Research Foundation says it is even higher than that. Put another way, of the 25 million Canadians now living, 2.5 million of us will die an alcohol-related death. That is ghastly.

I could go on, but the question that society and this government now ask really is this: Should any substance which causes such a devastating degree of misery, mortality and morbidity be advertised at all, let alone as an essential part of the good life? Should it? Instead, the Liquor Licence Board of Ontario, which is supposed to be controlling this drug, has given this province the dubious distinction of having among the most relaxed advertising rules for alcohol in the western world. Just why this is in the best interests of the people in this province is beyond my comprehension.

How can we tell our young people one thing, that drinking and driving is wrong, when the beer companies spend close to $200 million telling them that just about every other glamorous activity is only possible if they have their case of beer with them? Our province is going the way most other jurisdictions are coming. Almost everybody else in the world has woken up; we have not yet.

In Europe, alcohol advertising will either be greatly restricted or forbidden altogether by 1993, when the European Community becomes the United States of Europe. During the 1990 soccer World Cup in Italy, alcohol sale was forbidden in the stands. In Ontario, however, we argue about what kind of alcohol should be sold in the stadia and just how much. The sale of alcohol is banned in football stadia in England, as you know. They tend to burn the stadium down when they get drinking. France has introduced a bill which would ban all television advertising. The USA has a 21-year-old drinking age and also mandatory labelling. For example, mandatory labelling may well prevent foetal alcohol syndrome; if the pregnant women just looked and thought, "Holy gee, it causes that," they just might not do it.

Let me give you a couple of examples of what the LLBO considers to be responsible advertising. The Ontario alcohol advertising guidelines, which were in effect until a few months ago, simply forbade the depiction of dangerous activities in beer commercials under section 3g; that was the dangerous activities section under the old rules. The new advertising rules, which were introduced after we questioned how the Molson Indy was allowed under that section, state that any activity can be shown as long as the drinking takes place after the activity is over. In other words, a race car driver must not be shown drinking while he is driving. Really great. However, the implication that race drivers are beer drinkers is just fine by the Liquor Licence Board of Ontario. They simply changed, after we raised a fuss all over the place, to make what was illegal legal. That is all they did, and brought down the new rules.

The previous guidelines were clear that alcohol advertising not be directed to the young. This, to me, is unconscionable. Beer companies, as we pointed out, are the largest owners and sponsors of rock concerts and by very definition do advertise to influence the young, given the fact that about 60% of the audience at some of these shows is under the legal drinking age, but they are still allowed to do it. So the LLBO rewrote the advertising rules and they now state—get this—their definition of advertising to the young is that fairy tales and nursery rhymes will not be allowed in beer commercials. Is that not really something, to say that with a straight face? We will never be able to see the seven dwarfs getting corked or Daddy Bear asking, "Who's been drinking my beer?" or Jack and Jill going up the hill to get a bucket of beer and falling down. Just wait for the next revision, if we keep on going the way we are.

Still, just a few weeks ago Molson Breweries sponsored a program on MuchMusic called The Big Ticket. The show featured New Kids on the Block, and the average age of their fans is about 11 years old or younger. In fact, the members of that band are all teenage themselves. Commercials for Molson's beer were aired at every commercial break. If that is not advertising to the underaged, then nothing is. It is typical of the infractions allowed by the LLBO even under the present permissive regulations. I complained to both the CRTC and the LLBO about this clear infraction of their rules, without any result or even acknowledgement from either one of them to date.

1020

If the government really cares about impaired driving, why do we allow automobile races to be named after beer companies? What are we, nuts? These races are a clear and

blatant attempt to link alcohol with the dangerous operation of automobiles. They help form an inexorable link between drinking and driving.

Let me quote from a publication called Beer and Fast Cars. It was a research report which points out that beer companies have accurately pinpointed the heavy beer drinkers and have identified the young risk-taking male as part of the car culture.

"The automobile is a symbol in America of freedom and coming of age. For those whose social mobility is limited, the car has an even greater significance. To youth in the car culture, street racing offers thrills based on daring and defiance. Through motor sports sponsorship, beer marketers condition the psyches of their young targets, reshaping their social environments to actively but unobtrusively associate beer, cars and speed.

"To sell more beer, the industry is actively strengthening the association between drinking and driving. Forging the link between fast cars and alcohol may be considered undesirable in general. Targeting a group at pre-existing risk for the intersection of dangerous driving and drinking can only be called irresponsible." I call it obscene.

The hypocrisy is that all this is going on in this province with the full endorsement and encouragement of the Liquor Licence Board of Ontario, which changed the rules to allow it. That was just plain wrong, but there is more. We now have commercials featuring dirt bikers. One of the most repugnant of these is the Molson commercial showing riders doing stupid things like falling down in a stream, front-wheel wheelies and at one point falling off a cliff, only to be saved by grabbing a branch and then riding back to get their beer, with the voice-over slogan saying, "Ex says it all." Boy, it sure does. Ex says about 50% of the traffic deaths in this country.

That commercial is nothing short of outrageous. It is clearly designed to show that Ex drinkers do stupid things on motorcycles. Just why the Liquor Licence Board of Ontario considers this kind of insanity to be in the best interests of the young people of this province completely escapes me.

Labatt's Budweiser has one just like it. When the action is over in that one, the Bud man strolls away, a beautiful girl on one arm, pushing his bike with the other, bragging, "I'm a Bud man." The Bud man is clearly a knuckle-dragging twit. Can you imagine somebody identifying themselves: "I'm a beer drinker. That's what I am, boy, not a doctor or a lawyer or something."

Then there are the Bud stock car races which, like the Molson Indy, are just another beer promotion. But this one descends to a new low of corporate irresponsibility. You see, children under 12 are admitted free. They are offering little children an incentive to attend a beer promotion that associates fast cars and beer. They are helping to create the next generation of drinking drivers with the full knowledge, consent and encouragement of the government of this province through its agency, the Liquor Licence Board of Ontario. I do not know if the new government will set some of these things right, but unless it does, it cannot say it is against drinking and driving.

When the former Minister of Consumer and Commercial Relations, who was supposed to enforce the advertising rules forbidding the depiction of dangerous activities in commercials, sat on the planning board of the Molson Indy, allowing his own rules to be broken, and acted as race starter, and the minister in charge of the Ontario anti-drug secretariat, Ken Black, sat on the board of trustees of that race, is there any wonder we could never get a clear statement from the government about alcohol abuse?

When they allowed that rule to be broken, section 3g, the Minister of Transportation might just as well have gone to Molson to say, "It's okay. You ignore this size and weight thing for your trucks. That's okay," or the Attorney General saying, "Okay, 0.08% doesn't apply to you." Section 3g should have applied to Molson Breweries when the race was started. It did not, because the minister sat on the planning board. Is there any wonder we are getting to be cynics about government?

Is there any wonder why the provincial drug secretariat did not include the most dangerous drug of all, alcohol, in its mandate? Why did it not? We know it is the most dangerous drug. ARF or anybody would tell you that, but they did not include alcohol by direction from cabinet.

The drug secretariat was formed at the request of cabinet following the death of one boy because of the abuse of illicit drugs. That was the Benji Hayward death. However, in the six months after Benji Hayward died, 70 young kids died from alcohol abuse. Nobody said a thing. There was no task force, no screaming headlines, nothing. Those 70 kids are just as dead, but where is the task force? What the government did was cut back the drinking and driving under the Attorney General's thing, and put, I think it was, eight people on the drug secretariat. To accomplish what? Nothing the ARF and the Council on Drug Abuse and all the rest were not doing already. You say the drug secretariat really is not part of this, it is the Urban Transportation Development Corp of the drug world.

The hypocrisy of the previous government was nothing short of disgraceful. When the government officially endorses beer promotions which link fast cars and beer, it says volumes about its lack of commitment to this cause; that is, our drinking and driving cause.

We recommend that any relationship with the operation of automobiles be eliminated from all brewery advertising. While the Molson Indy may attract tourist dollars, it is the race itself, it is not Molson, that attracts the people. It could be Monroe shock absorbers, Ford, General Motors, all kinds of people could sponsor that race. Why a brewery, one that links fast cars and beer and kills people? It would be just as successful if sponsored by other manufacturers and called after the city or it could be the Ontario Indy, for example. Naming it for a beer company is nothing short of obscene. There is no rhyme, reason or necessity to use automobiles in beer advertising for alcohol at all.

When I asked the previous Minister of Consumer and Commercial Relations why the Molson Indy was allowed, he said he feared Molson would sue them if the government intervened. I say there were probably more sheep in Queen's Park at that time than there are in New Zealand. They are afraid the beer company would sue them; therefore,

they would not do anything about it. I will tell you who it is if you want to know.

Mr Perruzza: Who is it?

Mr Bates: Bill Wrye told me that.

Second, advertising or apparent advertising to our youth must be stopped. It is unconscionable that we are allowed to blatantly influence our young people.

The federal Department of National Health and Welfare has pointed out many times that some 60% to 70% of the audience at these rock concerts are under the age of 18. It does not matter if the beer companies deliberately target the underage; the fact remains that they do. By the time a child reaches the legal drinking age in this province he has seen over 100,000 beer commercials.

A study done in the US found the average 12-year-old could name five brands of beer—and incidentally link all their slogans; "Look out for the silver bullet" is Coors and so forth—but could not name the President of the United States. The same study showed that kids really thought that beer drinkers led the kind of life they see in commercials. Also it pointed out mainly young boys intend to start drinking when they become old enough because they were really turned on by the beer commercials.

Clearly, section 3g of the previous advertising guidelines must be reinstated and enforced. It said, "No aspect of any activity which calls for a high degree of skill will be permitted if imitation by the unskilled or underage viewer could be considered dangerous."

That move alone would eliminate many of the more undesirable aspects of brewery advertising which is now allowed under the new guidelines. I think we must realize that the operative mandate of the Liquor Licence Board of Ontario is to develop policies for the sale and distribution of alcohol that are in the best interests of the people of this province. It should be realized that the interests of the brewing industry and the interests of the public are mutually exclusive. What is good for Molson is not necessarily good for the country.

Over the past few years, the LLBO has looked on itself as a liquor marketing board with a mandate to increase sales and consumption. The proliferation of agency stores, the rapid growth of home delivery services, the relaxed advertising rules and the lack of enforcement of these rules is evidence enough of that.

Clearly the previous government had a questionable relationship with the alcohol industry when looked at from the perspective of public health. We can only hope that the new provincial government, which has demonstrated a more caring social conscience, will institute new rules and regulations more in the interests of the people of this province.

Mr Jackson: Mr Bates, thank you for an insightful brief. I have had occasion to sit down with some students in my high schools who have apprised me of some of the concerns that you have raised, but yours is a little more in detail. There are a couple of areas I wanted to explore with you. There is the mandatory labelling. Some years ago I wrote Senator Proxmire a letter and asked him for his bill—I guess that was about five years ago—and he was very kind to send me all the material on foetal alcohol poisoning and its linkage to labelling. I would like you to expand a bit on that aspect of your presentation and your reference.

Second, I noticed your excessive reference to Molson. However, I guess in fairness, or let me just observe that I was very impressed with a recent commercial, albeit extremely late, which warned against—personally I was very impressed with the understanding of it. I see it as a women's issue. I see your angle, but I am offended at certain aspects of beer advertising as they relate to women, which I find as offensive as you find glamorizing a lifestyle. But I thought that it was a rather sensitive piece of work and timely, and was shocked that it was actually Molson that did it. Could you comment in those two areas, please.

1030

Mr Bates: First, on alcohol labelling. For some reason that I cannot get to the bottom of, alcohol is the only packaged good, the only consumer product, that is exempt from the labelling laws that affect everything else you put in your mouth. It does not matter whether you take Aspirin tablets or Campbell's soup, there are labelling laws that govern what is in it and how much, and then a warning label, even on Aspirin tablets or cold tablets, about not using heavy machinery and not doing this if you have glaucoma and so forth. All those are on it. All that does not apply to alcohol. I do not know why. We have been to the Minister of National Health and Welfare in Ottawa and said, "Why?" and we are not getting anywhere.

They have labelling in the states now. It is now mandatory, and they have things warning that pregnant women should not take alcohol at all. So they do have labelling in the United States, and as I say—

Mr Jackson: In some states? Pardon me for interrupting.

Mr Bates: All states.

Mr Jackson: All states. It was an omnibus bill, was it?

Mr Bates: Yes, I think it was. Because of the distribution system of alcohol, the effect is it is on everything you drink down there now, as I understand it. It is like 21, for example. It gradually went through until 21 is now a universal drinking age in the United States. We have been pushing that for a long time.

Why does it not just include on the label that excessive consumption of this product could dangerously affect your ability to operate heavy machinery, obviously, just like it says on Dristan tablets or something. It should say that. It should have the ingredients. The ingredients are not even on the label of an alcohol bottle. There are all sorts of sulphides and sulphates and everything else that some people are allergic to; they can have serious effects from it.

On top of that, alcohol is a toxin. Intoxicated means poisoned. That is what it means. You are poisoning yourself when you get drunk. None of that is on it. Would they not put on it that this is a dangerous drug? I was asking a forum of the alcohol industry just the other day, and there was a blank stare. They started saying that people are alcohol users rather than drinkers. People hate that. I am a drinker, incidentally. It is not like I am a raging temperance

person; I am not. I make my own wine and everything else.

To get down to Molson's alternative advertising, its Take Care campaign, we have gone on record as saying we think the Take Care campaign, of all the attempts that the alcohol industry has made at undoing some of the damage it has done and is doing, is probably the best. I think the one you are referring to is the commercial showing the pregnant woman with the tag line on there, "Sometimes responsible drinking is not drinking at all." Nobody can argue with that one, but if the commercial said why they should not drink at all, I would be really impressed. Of course it does not.

Mr Jackson: If you are looking at a doctor conveying to a parent that the child is suffering from Down's syndrome, and it is actually discovered through the blood test at that point and there is no mystery or mistake that the mother was consuming excessive amounts of alcohol, this is not open to debate.

Mr Bates: Oddly enough, Molson got a lot of criticism from women's groups and so forth that it was a sexist ad because here is the guy, he can drink his beer okay, but she had to have her milk. It is a fairly lofty concept, but they got that all the time from that.

Nevertheless, we have said all along, even National Health and Welfare and a lot of people have said they would take 10% of their advertising budget and put it behind the Addiction Research Foundation, CODA, the drug education co-ordinating council, so counteradvertising could be done. There is a kind of censorship available. It is a financial censorship that we cannot get our message across except here. Who is listening? I mean, you are, yes, but the television station is certainly not listening, yet they run $200 million worth of saying you cannot really have a nice life unless you have your beer.

Mr Jackson: I realize there are other questioners, Mr Chairman, but I have a couple of areas I want to go into. Just in terms of alcohol being exclusive in terms of its treatment, I am also aware that certain other beverages, for example, Perrier water has quinine in it, and it is a little known fact and it is not reported.

Mr Bates: I did not know that.

Mr Jackson: Yes, we all know what quinine is.

Mr Bates: Oh, yes.

Mr Jackson: But it has such a small amount of it. I do believe that there are one or two other areas where there are deficiencies.

Can I ask you about dedicated revenues as they relate to health care? There is a lot of debate right now about the costs for treatment in the United States. There is also a debate growing with respect to people who self-inflict. First of all, I should say that I share the view that alcoholism is a disease and should be treated as such and is not necessarily self-inflicted abuse, but it has some psychosomatic bases.

With that understanding, some have argued that with the tax revenues from beer that we generally increase in every budget, more and more of those revenues should be dedicated to a health perspective, reducing demand in the US, the option to go to the United States, that we should be doing more proactive work with those, as opposed to just throwing them into general revenues and paying for schools and everything else out of those revenues. These are substantive revenues from alcohol in this province, probably some of the most substantive revenues per purchase on the continent.

Mr Bates: You are hitting another raw nerve, I guess.

Mr Jackson: I did not catch much in your presentation, but it is an area that is of interest to me and maybe the committee might be interested in some of your thoughts on that.

Mr Bates: That is a raw nerve for anybody battling drug abuse in this province. The province makes, I think, about $850 million to $900 million, something like that.

Ms Haslam: It is $640 million.

Mr Bates: It is $640 million? Is that what it was last year? It has been going down a bit. But it costs $4.5 billion to treat. That is in excess health care costs to this country. I forget what the Ontario figure is, but it would be about a third of that; it would be over $1 billion in excess. That, for some reason, has been lost on the previous Treasurer, Mr Nixon. He could not see that. He had to build up this, and so that is the Health department's budget, but for something that kills 1 out of every 10 of us, that is a pretty deadly expense, especially the loss to our youth.

Good heavens, when a child dies, it is overwhelming that it is going to be in a car crash and 50% of those are going to be at least alcohol-related. Young people under the age of 21 have, I think, about 4% of all the driving licences in this province. They get into 17% of all the impaired crashes and 18% of the deaths. You move that up to 25 and 40% of all the people killed on our highways are under the age of 25. What are we going to do about it? Nothing. What we are going to do is put in more lifestyle advertising and have the Molson Indy. We are going to glamorize booze and cars—dumb.

Mr G. Wilson: I, too, am very impressed with your submission, Mr Bates. I think it would have helped in places if you had put down the references. For instance, this Beer and Fast Cars, perhaps you could send us that.

Mr Bates: Yes, I have that.

Mr G. Wilson: It is just so we can follow some of these things up. I would be interested to know what your experience in lobbying the companies involved is. Have you done that in the past?

Mr Bates: We have, oddly enough, a very close relationship with the beer companies and with the distillers' institute and so forth and we are after them all the time on this kind of thing. We were awfully close to getting Molson to put a leaflet in every case of beer saying, "Don't drink and drive," or something like that.

We are always sort of on a knife edge wondering whether or not a group like ours, which does not have two cents to rub together ever—if we asked the beer companies they would probably send a truck up with money. Then we say, "Are we taking money from the bad guys?" The other half of the board says, "If they're causing the

trouble, they should pay for it." It is one of those things we are up against. We are in constant contact with them.

About the Molson Indy, by the way, we talked to them about that and at our behest the Molson Indy last year had its Take Care things all around, all sorts of precautions to make sure there was no drunkenness and so forth on the grounds. They do run a good race. Nobody can complain about that, but it does not have to be a beer company doing that. It could be almost anybody else.

1040

When Monroe shock absorbers likes to associate fast cars with Monroe shock absorbers or something or with gasoline from Esso or somebody, that makes a lot of sense. I can understand that. I happen to be a working journalist and I am also on the Automobile Journalists Association of Canada, so I have absolutely nothing against automobile races. Many of the safety features we have in our cars now, disc brakes and radial tires and so on came from the racing circuit. I have nothing against that at all. It has probably increased the safety of cars, but when a beer company sponsors them and directs its advertising at young kids, that is very bad.

Ms Haslam: Your organization is People to Reduce Impaired Driving Everywhere. Am I correct in understanding that you are not against alcohol or alcohol consumption, that what you are against is the alcohol consumption and the driving, and your main concern here is dealing with the LCBO and the advertising it puts out?

Mr Bates: The advertising guidelines are published by the Ministry of Consumer and Commercial Relations and the Liquor Licence Board of Ontario. The LCBO is sort of the distribution arm of the LLBO.

Ms Haslam: That is correct, yes.

Mr Bates: There is nothing much we can do to the LCBO. We did a couple of years ago, with a lot of lobbying and yelling, get it to take the home delivery services from under LCBO and put them under the LLBO because previously they were not licensed. The LCBO cannot license anybody. Now at least those home delivery services are licensed, but still in debates I have had with the heads of some of those things on radio and so forth they freely admit that they deliver to the underage and the already impaired.

Our problem is that we know the person who is likely to kill you will have a blood-alcohol concentration of 0.165 or more. That is our focus. We have come to the conclusion that if we can stop alcohol abuse or reduce alcohol abuse we can reduce impaired-driving crashes. We do not care if people drive cars as long as we do not kill each other. Somebody with a 0.165 BAC or better is the one who is going to kill.

I can sort of put this in perspective. There is the so-called young male risk-taker who also happens to be the target audience for the beer companies. This is a person who carries a lot of bad baggage in his life. It makes him very aggressive. Normally he is very aggressive, the way he drives. Put a beer in him or a bunch of beers and he becomes the killer. The beer companies know that is the person. He is also our target market. He is the one we are trying to get at too. They are trying to convince him that the Molson Indy is a great thing and we are trying to say, "Hey, you shouldn't even be on the road at all."

We have already been to both the Minister of Transportation, Ed Philip, and to the new Attorney General to get an administrative licence suspension put in and a graduated licence put in. We know that it takes three years to create a driver, for example, and a graduated licence would simply start inserting more and more responsibility on a licence as a person gained experience without getting any more points and infractions and so forth. But if he started to get those things, you would keep him at that level. We think we would help find that aggressive young risk-taker at that point and get him off the road. If we can get that group off the road somehow, we will have come a long way.

Mr Grandmaître: Mr Bates, do you think all beer advertising, all liquor advertising should be banned?

Mr Bates: I think that is going to happen in Europe. We have been in contact with people in the European Community. It is not because they are moralistic about the thing but because when the United States of Europe is formed they will all go to the lowest common denominator in tariffs and everything else, so they will probably adopt something like the Swedish model or something like that.

The betting is that in Europe alcohol advertising will be greatly restricted or banned altogether, probably banned altogether, and there is no reason to advertise. Why do they advertise the stuff? We know what it does. It is killing people on a daily basis. Why do we advertise it? I cannot say that is our position because we feel it is unrealistic.

We do take a stand, however, that if we cannot get it off television, at least let them advertise brand advertising like they are supposed to. Can anybody in this whole committee tell me the difference between, say, Labatt's Blue and Molson's Ex based on the advertising? Has one got different malt or hops or water or something in it? Of course not. Can you tell by the advertising? No. All you can tell from Molson's Ex is it sponsors race cars and all you can tell about Labatt's Blue is that it at present has a campaign going or a contest going among kids to write beer ads. How does that tell us anything about brand? Yet the regulations clearly state they are only supposed to do brand advertising. They do not. They are advertising down to kids. What is it, 400,000-odd kids turn 19 in this country every year? That is their target. That is a substantial market and that is what they are after. They cannot get me or you, but they can get them.

Mr Grandmaître: I am sure, Mr Bates, you will recall that ski Team Canada turned down, or I think the federal government turned down, the sponsorship of RJR-Macdonald tobacco six or seven years ago. Even DuMaurier cigarettes, the sponsors of the Canadian Open, are still advertising. You do not see cigarettes, but the word "DuMaurier" is there. Right off the bat it implies DuMaurier cigarettes.

Mr Bates: Of course.

Mr Grandmaître: But you do not see a cigarette. You do not see anybody walking around smoking on a golf course today.

Mr Bates: The warning labels on cigarettes, we feel, had quite an effect in the reduction in cigarette sales.

Mr Grandmaître: Yes. What I am trying to get at is, if we prevent these people from advertising on TV, for instance, they will find another way of promoting their products, even if we do not see a cigarette or a beer. They will find another way to advertise; this is what I am trying to get at.

Mr Bates: That is right.

Mr Grandmaître: I am not saying that you are wasting your time, because you are not. You are doing Ontario a great favour, I think, by trying to prevent these people from ruining the lives of our upcoming generation. I think you are absolutely right. My concern is that these people do have the money.

Mr Bates: They are very clever.

Mr Grandmaître: They are very clever people and they will spend all kinds of money contravening the law or getting around the law. It is very difficult to pinpoint these.

Mr Bates: They will. In France, for example, when they forbade the advertising of cigarettes, they started to advertise matches with the same brand names and called them that, until they stopped their doing that. They do not do that, either.

The trouble with television advertising is it is all-pervasive. That is the one that gets the kids. The kids are watching an average of six or seven hours a day of television and the average number of beer commercials is 2.5 every hour. Another thing is, the thing you are most likely to see on television in any given hour is a beer commercial. You see beer commercials on television more often than you see Barbara Frum and Knowlton Nash combined, which may be a good thing.

The Chair: Some people may not think that is so bad.

Mr Bates: Anyhow, that is how pervasive it is. The point is, it is the kind of advertising they have, which simply shows these people having a wonderful time. I do not know anybody who has as much fun as they do in beer commercials. I would love to have that much fun, but I probably never will. That is what the kids see and that is what the kids believe. They see 100,000 of those things by the time they get to be drinking age. So they say they do not advertise to the young, but they do.

The intent to advertise to the young is irrelevant. The bald fact of the matter is that they do. They advertise around New Kids on the Block. We know the average age of their fans is 11 years old or less. The band itself is composed of teenagers and it comes on at 8 o'clock, right at prime time for young people. They are advertising to the young deliberately. Why has not the Liquor Licence Board of Ontario or the CRTC even answered it?

Mr Grandmaître: I see you are a charitable organization. Where do you get your funds?

Mr Bates: The Department of National Health and Welfare gave us a grant that runs out next month, and membership fees account for some, and corporate donations like the insurance bureau, insurance companies and so forth. We run a red ribbon campaign in conjunction with the police RIDE program. It is pretty diverse. The Ministry of the Attorney General drinking and driving countermeasures office gives us a grant for some project. Probably our summer campaign will be funded by the ministry, that type of thing. I am strictly a volunteer. I retired from Maclean Hunter some seven years ago to do this on a full-time volunteer basis. You get so caught up in this thing, you cannot let go.

1050

Mr Grandmaître: Have you ever approached the beer companies to provide you with an annual grant?

Mr Bates: As I say, I think I mentioned before, that is one of the difficult things we face all the time. If we allowed ourselves to be promoted or to be supported by the beer companies, we certainly could get money from them.

For example, Bacchus, which is the university alcohol education group, is totally funded by Molson, just by asking for it. I am sure we could be too, if we just simply went and said, "We need all this money." But it is not a matter of money, really. You need money to keep the office open and things like that, but then we could go all the way back to people around a kitchen table, where we started nearly a decade ago, six or seven of us with a police officer sitting around a kitchen table, "Let's start doing this thing," and we did. It has grown now into a province-wide organization around a whole bunch of kitchen tables all across the province. We have about 3,000 members now, something like that. Unfortunately, most of them are members because a family member was killed or injured.

Mr Grandmaître: You seem to be going after Molson this morning. Do you prefer Labatt's?

Mr Bates: As a matter of fact, I drink Molson's Light, I guess it is. But Labatt's started all this—Budweiser is Labatt's. I have been going after Budweiser with the "Bud Man," its commercials and so forth. There was a great big battle on who is going to have the Indy in Toronto. Was it going to be Molson's or Labatt's? One is as bad as the other.

The Budweiser motorcycle ad—kids get killed on motorcycles all the time when they drink. As a matter of fact, the death of the young lad that started this organization off was on a motorcycle. That was Casey Frayne, June Callwood and Trent Frayne's son. He was returning on his motorcycle to write his final exams at Queen's at the age of 20, a brilliant kid. He got hit by a drunk going the wrong way. The lady who killed Casey got a 90-day licence suspension and a $500 fine—wow. That is really what got us going. He was a friend of my daughter at Burnhamthorpe Collegiate. That is how the organization got going, when Casey died.

Mr Waters: We have talked about the banning of advertisements. Do you have any recommendations for the LLBO beyond the banning of advertising? Do you have any other recommendations, primarily with young drivers drinking?

Mr Bates: Certainly. The proliferation of agency stores, we feel, is simply a disgrace. There is an example that was given to us by the union, where there is an agency store in Ontario where a chap went in and bought a shotgun,

ammunition, gasoline and alcohol all on the same Visa slip. We feel there is something dreadfully wrong with that. That simply could not happen in a regular LCBO store. We have agency stores selling booze that are also gas stations and marinas and things like that. That is simply madness and it should not be allowed. Surely to heaven, it does not take that much to have an LCBO store in various locations.

We have these home delivery services and that made a lot of sense in Moosonee or something like that, where they would say, okay, one person can go down to the LCBO store, be licensed to pick up a certain amount of alcohol and bring that back for distribution, rather than everybody going 30 or 40 miles to do it. That made sense in that kind of area, but in Toronto a home delivery service makes no sense at all. Why have we got them? There is an LCBO store in virtually every shopping centre I can think of and all the major malls downtown. There is no need for a home delivery service in this city. Yet we have them. Why? We have been arguing about those. The agency stores should be closed up and the home delivery services in the metropolitan area should be closed up.

There is a direct relationship between the availability of alcohol and the incidence of impaired-driving crashes. It is direct. You do not need a PhD to work it out. If alcohol is easier to obtain, then impaired driving is easier to accomplish. It is as simple as that. It is a direct relationship. And there is a direct relationship between distribution and consumption. If we are after abuse, then clearly if we can cut down on distribution, availability, we cut down on abuse as well.

The Chair: You mentioned the political masters. Has your organization ever done anything in respect to the board of the LLBO? Have you approached them at any point in your history and made your case before the board, or have you made any efforts?

Mr Bates: Yes. They should probably send that down to this committee. I have made several presentations to the LLBO and had a number of short, sharp debates with Andromache, and lost every one of them.

The Chair: One of the new responsibilities of this committee is to oversee the order in council appointments process. At some point in the future we will have the opportunity to possibly review appointments to the LLBO. I am just wondering if you have taken a look at the appointees in the past and if you have had any concerns about their backgrounds or biases. Have you taken a look at that sort of thing in the past at all?

Mr Bates: We felt that over the past four years the LLBO was so controlled by cabinet. I have had sort of debates with people like Ian Scott and so forth about the effect that the cabinet has had on the policies of the LLBO. They tend not to blame the LLBO itself, but rather the previous cabinet, which seemed to think that it would not be happy until this whole province was awash with booze. For some reason they felt it was somehow more mature or something to increase consumption when all the other jurisdictions in the world are decreasing it. Impaired driving in Muslim countries is not a very serious thing at all.

The Chair: Have you had any analysis of what the experience has been in the United States of raising the drinking age?

Mr Bates: Yes, dramatic. There are two major things that have happened in the United States which have had a dramatic effect. Of course, one is raising the drinking age to 21. There is something like a 17% reduction, and all this is available from the National Highway Traffic Safety Administration. If I could just briefly go through that one, then I have a thing this thick on why the drinking age ought to be raised.

In 1972, in response to the Vietnam war, the drinking age was lowered because "if a kid is old enough to go in the army he is old enough to drink." I do not know who said that, but they did. The Insurance Bureau of Canada measured what happened here. The impaired-driving crashes went up 300-odd per cent in the affected age groups. They noticed the same thing in the United States. So what they did was, state after state, raise the drinking age to 21. Without exception, the incidence of impaired-driving death in crashes among teenagers went down dramatically 17% to 25%. All this was fed into the computer of the National Highway Traffic Safety Administration. They then convinced Congress to introduce Bill HR-4616, which came out the other end as the National Minimum Drinking Age Act. That was passed unanimously by both houses in the United States to 21.

It went to the Supreme Court of the United States and it said: "We know all this. It might not be fair," and on and on, "but it is in the best interests of the people of the United States. Therefore, it is constitutional," and it came in in state after state. As you know, they used the highway funds stick to enforce it. Anyhow, it is now in and the result has been dramatic.

The other one is that there is now, in 29 states, administrative licence suspension where a police officer has the right to suspend the licence for 90 days the minute someone blows over 0.10—in the United States that is their limit—on a regularly administered breathalyser test. They have had a dramatic reduction in impaired-driving crashes with just doing that. People really fear losing their licence.

Manitoba has now introduced not only an administrative suspension. It had a 50% drop in the first six months when it introduced the thing. Then they also introduced impounding cars of people who drove under suspension. That just finished going through the Supreme Court too, and that too has been upheld as being constitutional. We are very, very backward in this battle in this province. We are probably the most backward. Next to Quebec, we have the worst record of them all.

Mr Jackson: Nationally? Are you saying we have the worst of the provinces?

Mr Bates: Oh, yes, by far. That is, in introducing this kind of legislation we are way behind. Look at the stop-check things in Alberta, BC and so forth.

1100

The Chair: Are there any further questions? Thank you very much, Mr Bates. We appreciate your appearance here this morning.

Mr Bates: Thank you. I am most appreciative of the opportunity. I will get the Beer and Fast Cars down to you.

APPOINTMENTS REVIEW

The Chair: We will move on to the discussion of process. I gather there was some disagreement yesterday about how wide-ranging the discussion should be. I guess Mr Perruzza took one view and some other members of the committee took another; I am not sure. You thought it should be rather confined?

Mr McLean: We did not really get into a real broad range of discussion. I thought it was appropriate that you should be here to have the discussion. We had a fair bit of discussion on the process. I thought we left it open that it would take place today and as broad as they wanted it. I did not think it mattered. Let's have some input into it.

Mr Waters: I was just going to make a recommendation. I think one of the things we have discovered on our side is that yes, there are some problems with the process. I think one of the things that I would like to see happen is—and I talked to Mr McLean actually this morning about it for a second; he was the only person I could buttonhole in the corridor—for us to agree to set aside some time near the end of April to sit down and review the changes in process, different things that we have tried, and come up with some formal recommendations to take back.

I think sitting down and changing the rules every week is not going to work. I think we have to come up with some idea so we can take it back. Two weeks is not going to give us enough time to change the process to a permanent thing. We have to come up somewhere down the line with some recommendations to go back, that these are the things we recommend, the procedure or the process, for this new committee.

The Chair: I think that is a good point. As we know, the standing order we are operating under is a temporary standing order and we are to report back to the House in May, I believe it is.

Mr Grandmaître: It is 27 June.

The Chair: No.

Mr Grandmaître: It is 16 May.

The Chair: We are supposed to report in May. The temporary standing order lasts until 27 June. We can, I guess, by unanimous consent, make some changes apparently that might help us along in the process in the interim. I know that there was some discussion. I guess it was Mrs Marland, as a matter of fact, who had mentioned the question of whether we should be reviewing the recommended appointees and making a decision on them the same day that we have had them appear before us. We had a difference of opinion on that. Some people felt we should be waiting, and that 24-hour period was appropriate; it gave them time to reflect and perhaps to give careful consideration to what the witnesses had to say or did not say as they appeared before us.

I know Mr McGuinty had some concerns in respect to the letter of support, if you will, that was provided by Mr Ellis in respect to the vice-chair's appointment of the Workers' Compensation Appeals Tribunal. Something that we should be discussing, I suppose—not especially that, because the Chair has made a ruling on that particular document—is the whole question of the kinds of submissions that we might want to see allowed during the next period of time prior to making our report to the House. I will just open it up for general discussion. Ms Haslam and then Mr Waters.

Ms Haslam: As a matter of fact, I took that particular issue about the letter because I appreciated having it and I asked why it was included. Apparently, because the application had been in earlier, it was in the files and therefore it was just included because it was in the files. This was not a new letter that had come forth; it was just part of the original file and that is why it had been sent to us.

I appreciate having the time to look over applicants. To make a decision so quickly I think is not conducive to doing a good job in making your decisions. I also point out that during the House sitting time we would be meeting on a weekly basis and therefore it would be under the standing orders. We would be meeting to discuss the appointments on the next meeting and that would be a week. Maybe that is the problem with the standing orders, that the standing orders were prepared to give us a week's time to look at that, whereas we are operating now in an off session and we meet every 24 hours. So that is something we could look at, but I appreciate having the time to go over them.

Mr Waters: There are a couple of things I wanted to ask about and one of the things is, do you want to do this as we are now, or do you want to go in camera so we can have just an open and frank discussion? I think we all realize there have been some problems, so maybe we could deal with them a lot more easily in camera. That was one of the first things I wanted to talk about. There are some various other ones. Even in the two days that I have been the whip on our side, I have seen some problems and I think we could deal with them and I think we have to sit down and discuss them.

The Chair: If you wish to make a motion to go in camera, we will see what happens.

Mr Waters: I move that we go in camera for this.

The Chair: Is there any discussion on that?

Mr Grandmaître: I do not know how the rest of the members feel, but personally I would like to remain in the open for a number of reasons. This is supposed to be an open process and we will be talking about the process or the lack of it and I think we should remain in the open, Mr Chairman. I do not think we would accomplish much by going in camera and I do not see the need for going in camera. I do not think we will be talking specifically about individuals, so I do not see why we should be going in camera.

Mr Jackson: I certainly am loath to go into committee of the whole under these circumstances. I do not think the issues are conducive to it on a sensitive personnel matter, but I think the concerns can be expressed without being specific to an individual. I am really not anxious to go behind closed doors in discussions, especially in a process which, by the government's own invitation, is for us to be more open with. I frankly am surprised it is the government which is suggesting it. If there are difficulties, perhaps this can be discussed at the subcommittee level

and the Chair's good counsel and advice can be shared with Mr Waters.

The Chair: In all honesty, there was an issue raised at the last subcommittee meeting which apparently had been raised by a government member of the committee. Mr Silipo brought it to the attention of the subcommittee, and if it is the intention of government members at some point to discuss that matter, it should be done in camera, I believe. It is a research matter.

Mr Jackson: If it is that specific area, I strongly agree that that be done in the open since it potentially flows from a member's rights.

The Chair: I wanted to bring that to your attention. At some point, that matter, in my own view and I think in the view of the subcommittee, should be dealt with in camera because it does deal with personalities.

Mr McGuinty: I want to concur with the comments made by Mr Jackson and Mr Grandmaître. I would be, as a general rule, reluctant and loath at any stage in the evolution of the approach we are bringing to the government appointments process to go in camera. The overriding objective is one of openness, to strip away the mystique, to use the Premier's words. Unless we have exceptional circumstances, we are discussing something delicate or of a personal nature, I do not think we should be going in camera.

1110

Mr Waters: My concern was if we were going to talk about what you had mentioned, Mr Chair, if we were going to get into that, I figured we would just have the whole discussion that way. But I have no problem. I firmly believe it should be more open, so if we are going to deal with that at subcommittee, then fine.

The Chair: If you want to withdraw your motion—

Mr Waters: Sure, I will withdraw it.

The Chair: I thought Mr Silipo was going to talk to his colleagues with respect to whether you felt it was appropriate to discuss this at a full committee meeting. If indeed if was, if there was a consensus, then we should do it in camera because it deals with personalities. Perhaps if you want to deal with that issue at full committee, when we get to that point, we can have the general discussion. If you feel that is the way you want to go, then we can have a motion to go in camera to deal with that one specific matter.

Mr Waters: I think what I will do is, first off, I will track down Mr Silipo. He is somewhere around the province. Unfortunately, due to my timing last week, we did not have a lot of time to talk and we were hoping to get some time this week, but he has been on the road and I have been here.

The Chair: He may feel that what was done in subcommittee was sufficient. I do not know. He conveyed the concerns that were expressed by members of the committee.

Mr Waters: I will withdraw the motion at this point then.

The Chair: Okay, carry on. We want to get back to the general discussion. I know Ms Haslam raised the Ellis letter and I think we should look at this in a broader way than that letter because, as I said, I have ruled on that particular matter. But if we want to talk about submissions to this committee in respect to recommended appointees, perhaps we can broaden it to that point and open up the discussion.

Mr McGuinty: I want to express my personal agreement with Mr Waters's suggestion that we deal with the procedural matters prior to the expiry of the time frame within which we are operating at the present. But I also think it is important that we let each other know how our thinking is evolving between now and then so that we do not spring anything on each other in our meeting some time at the end of April.

I feel, and again here I am going to speak personally, that in many ways my hands are tied in my efforts to achieve the objective set out by the Premier to strip away the mystique which has been associated in the past with the government appointments process and to achieve openness. We have an objective, on the one hand, which is noble and worth while and, on the other hand, we have to look at the tools we have to attain that objective.

Sometimes I feel the Premier has in some way said, "We're going to the moon and in order to get there, here is an airplane." It may very well be that, at some point, when the airplane disappears from sight, people will conclude that we have in fact gone to the moon. But we are not going to the moon, given the tools that we have here.

Mr Bradley: But there is an illusion of going to the moon. That is what is important.

Mr McGuinty: The terms of reference, of course, outline the procedure, and that is something that we are to talk about now. I am of the opinion that they are sorely lacking with respect to the procedure or the tools that we have in order to achieve our objective of openness in the government appointments process.

I have said these before, but they bear repeating, to my mind in any event. We do not have a power of veto. We have unequal representation on the committee. We have no right to call witnesses. We have no information—and this is extremely crucial—regarding the antecedent screening process. We do not know how these people are arriving before us, except to say in a general way.

The time constraints within which we are operating are also very severe and they prevent us from properly dealing not only with the individuals who appear before us but with a great number of appointments that are being made during the course of any given year.

I think it is important to recognize the significance of what we are doing, and sometimes, I may be mistaken in this regard, I feel the government members of the committee do not realize that. I think we would realize it if something went wrong. It has been known in the past for political appointments to turn sour and to cause embarrassment to the government. At that point the eyes of the media and of the population in general will focus on the process, and in particular on the function of this committee.

When we are looking a constituent in the eyes, a voter who asks us what part we played in the system, for instance, if he even just says, "Why didn't the best person

get that job?" I think we would have to answer honestly, "We're not here to ensure that the best person is to get the job." But I can hardly imagine the Premier saying that we are not out to get the best person for the job. I guess we would have to respond as well, "The system doesn't allow us to know what takes place in the past, before people appear before us." I do not think that is a good answer to deliver to one of our constituents, "We don't know."

If I was in government, I think I would even feel more sensitive to that, because the next question is: "You're in the government. You concurred in the appointment of that person. I looked at the record. You were on the committee, you concurred in the appointment, you expressed no reservations. What about all this information that has now come out around this person when you concurred in his appointment?" You would have to answer, "Jeez, I did not know about that other information." The next question obviously would be, "How could you intelligently concur in an appointment if you didn't have all the information before you?"

To come back to my starting point, I feel that my hands are tied. For us to say, "We're not out to ensure that the best person gets the job. Our frame of reference here is really beyond the screening process. Somebody appears before us, and based on our limited questioning and the limited evidence that is submitted to us, we are supposed to give an opinion," I think does a disservice to the noble objective set out by the Premier.

I think perhaps the only answer we should ever be giving here is that if we cannot concur in an appointment, we should say no, with particular reasons. But if we say yes, it should always be subject to reservations. We do not know what has occurred in the past.

Take Mrs Radigan's case, for instance. She got a phone call out of the blue. That is quite a screening process. She got a phone call out of the blue and then the next thing she heard, she was to appear before us. If we take Mr McCombie's appointment or Mr Martin's appointment—intended appointments—in Mr Martin's case, he got a phone call out of the blue. He submitted an application approximately a year ago and the next thing he heard, he got a call from Mr Arnott to appear before us. In the case of Mr McCombie, he was handpicked by the chair. I am not saying they are not the best people for the job, but is that the process we want to endorse? I do not think it is, from my own perspective.

I will move along now to a more specific matter. With respect to the letter that was submitted by Mr Ellis, I disagree with the Chair's ruling, but that is not subject to debate, so I accept it. But I think what we are going to have to do is ensure that we take whatever steps we feel are appropriate to maintain a balance, so that whenever we have supporting letters on the one hand, we should be entitled to ask for or to determine whether there are any knowledgeable people who can lend some insight into a prospective appointment, who may disagree with the supporting letter.

Again, if we go back to Mr McCombie's case, this gentleman appeared before us as a result of being selected by the chairman. So we have here before us, if you look at the process and the lack of objectivity, a gentleman, an intended appointee, who had been chosen to fill a position by the chair and the only information we have before us is the chair's supporting letter of reference. To give Mr Ellis great credit for his candour, he did indicate in his letter that the other vice-chairs and the members on WCAT, as I recall, did not support this appointment. It would have been nice to hear from them so we would have an idea of what it was we were getting into if we were going to concur in this appointment.

1120

With respect to one other matter—I am not sure, Mr Chair, whether you consider this a procedural matter or not—we have not addressed Ms Phillips' response to the letter that was sent to her by this committee. Essentially, she indicated, as I understand it, that the task was overwhelming, and to accumulate a list of the positions which were not going to be subject to our review was simply beyond the realm of the reasonable. Maybe I am reading too much into it, but in any event, the answer was no, she was not going to do it.

I think that is unacceptable. Again, if this government is giving out 5,000 jobs or so and it is paying for those jobs with money acquired from taxpayers, should the taxpayers who have a right to apply for those jobs not be entitled to see a list of those jobs? And should this committee not be entitled to see a list of those jobs which we are not entitled to review?

Having said all of that, I do not want to detract from the nobility of the objectives set out by the Premier. I cannot even recall if I said this at the outset, but Stanley Knowles, a man for whom I have a great deal of time, said, "No man is a ready critic of his own measures." We should bear that in mind. The process is severely lacking, to my mind, and the sooner we can straighten it out, the better.

Thank you, Mr Chair, and thank you, fellow members, for your patience.

The Chair: Just for your clarification, Mr McGuinty, in respect to Ms Phillips's memo to the clerk of the committee regarding our request, which was an informal request—we did not have a motion but there were no objectors to the request at the time—I will remind the members of what she said:

"There are many other orders in council passed in a year that appoint persons to positions which will not be referred to the committee. These include appointments to the staff of the civil service, judges, crown attorneys, agents general, referees and deputy referees (Line Fences Act), livestock inspectors," etc. "This is by no means an exhaustive list. It would take us several weeks to look up all these types of appointments that were, for example, passed in 1990."

I just wanted to point out to the committee that if it is the committee's wish that that information be provided, we can make that request by motion, and Ms Phillips is obligated, through her office, to provide us with that information. So if the committee feels that is going to be of assistance, we have the wherewithal to obtain that information.

Mr Bradley: Speaking on the process again, I believe the illusion that is created is much more significant than

the reality of what this committee is doing. The step along the evolutionary process that has taken place is in fact a step where more information is available to the general public on a wider basis of which appointments are available to the public.

Much of that information was available previously. I think it has been made more extensive, at least as to where that information can be found. But to suggest that this committee is doing anything that is significantly different from what has existed previous to this government is, I think, not accurate, and it can be changed only if the mandate of the committee were changed, only if the government would permit the committee to have any real and significant power.

It has been appropriately pointed out that the time constraints will prohibit this committee from dealing with all of the appointments that are made to the various agencies, boards and commissions of the government of Ontario. But the illusion out there that is created, the editorial you will see immediately, or the young reporter who is eager to see the new government translating its pronouncements into action comes to the conclusion that somehow we have a wide-open process where all members of the Legislature have significant input into it and that the end of patronage has come in Ontario.

Of course, those of us who sit on this committee who have observed for a number of years what has happened know that this is simply not true. Not that it cannot be the case that we cannot make significant changes, but I suggest to this committee that I am not optimistic that the government is prepared to make the changes that would really make this a genuine process. So the time constraints are one.

The most obvious deficiency I hope the government would address when these pronouncements are made is the ability of the committee to veto appointments. If, for instance, it had to be that any of the appointments made would have to receive the unanimous consent of the committee, of course that would be significant. That would be, as some might say, true democracy in action.

I am not going to hold my breath till that happens. I doubt it is going to happen. I know that the government committee members ultimately, although they do not think so, will be told what to do and how to do it. You will have people who will sit in the back of the room watching you carefully all the time, whips and so on, who will tell you when the crunch comes what you are going to do. I am not overly critical of that happening, I must say, as long as you do not pretend that there is something different happening.

You are the government. You won the election—albeit with some 37% of the votes; I remember the letters to the editor about how proportional representation was the way to go. That is fine. I do not mind. That is the system, that is what exists, so you have the right to do a lot of these things. If people are critical of you, perhaps they would be unfairly critical if you are doing it.

What I would be critical of is if you pretend you are doing something that is substantially different. You are not doing something substantially different unless your government is prepared to allow this committee to veto appointmentsthe government makes rather than simply go through the procedure of reviewing them. I think the committee would have to seek that ability to veto appointments.

And there is the fact that the committee cannot deal with all possible choices, but only with the final name that cabinet puts forward. Perhaps if the committee had the opportunity, in ones the committee might select, to deal with all of the potential appointees to that agency, board or commission, again, that would be a significant and substantial change, for the committee would then ultimately make the choice. My guess is that the government will not allow it. The government says it is elected to make its decisions and it will not do so. If it decides to do that, it decides to do that. Again, let's not pretend it is doing something different.

I look at the fact that the committee itself, although there is a roundabout way of doing it, is not in a position to propose appointments to these agencies, boards and commissions. I suppose everyone can send a letter to the person everyone sends a letter to—the Premier or the chair of cabinet or to Ms Phillips—suggesting a name, and that might happen. There will be certain people who might get appointed by that process. That can happen, but the committee itself is not in a position to propose appointments.

So we have here a request, designed to demonstrate that this committee is not dealing with all these appointments, that Ms Phillips produce a list. Of course, one of the classic replies coming from a government—government with a generic "g" on that—is that it would take too much time to produce that. That means, "I don't want to give it to you, therefore, 'It takes too much time to produce.'" That is a classic answer that is given. Under freedom of information, you see that happen all the time. It takes too long or something of that nature.

The process is somewhat interesting to people who sit here, because in fairness we do get to see some of the people. They are not just a name on a paper; we get to see them and perhaps chat a bit with them or ask them some questions. But it is not a significant change. Let's not pretend to the people of this province. You have been able to get away with it so far. As a politician, I admire that to a certain extent. You have been able to create the illusion out there that there is a significant change. People who, frankly, should know better have bought that. They should come in and sit on this committee. They should carefully read the rules to see whether a substantial change is taking place or whether it is simply new faces saying the same thing again, which often is the case.

In addition to the proposals made by the member for Ottawa South, I certainly would like to see the changes I have suggested—that we have the veto, that we have the opportunity to look at several of the proposed people for appointments and that we have the lists of those whom we are not going to be able to deal with—as three particular items before us. If we do not have that, it will be interesting but certainly not very compelling.

1130

Ms Haslam: I have stated time and time again that I feel they misconstrue what our mandate is. Our mandate is to review the qualifications of the applicant to understand if he has the experience necessary for the job. Is that different? Yes, it is.

You are right, we never used to see who was getting the jobs. We never used to be able to ask them questions. We never used to be able to say: "What party do you belong to? Do you make political contributions?" I find it extremely interesting that we have not come across a New Democrat once; not once in the last few weeks you have been asking that question have we come across a New Democrat.

Interjections.

Ms Haslam: Even Andy Brandt—

Interjections.

The Chair: Order. This is going to degenerate. Let Ms Haslam continue.

Ms Haslam: Thank you. So there is a difference. It is a new process, and we are going to iron out the bugs. That is what we are supposed to be doing. I find it extremely interesting that we are not giving the process a chance after a couple of weeks. There are things we would like to change, yes. I can see that we are all going to be bringing suggestions for change, and I have a few myself.

As Mr Bradley has often told me, he believes it is the right of the Premier to appoint people to positions of added responsibility or to positions on boards and agencies. But at least we get a chance to question that person. That is what is new. That is what is different. That, and the fact that it is more available out there to the public. They can now apply more readily, and there is more input for those people out there. It is not just the big people we should be looking at. It is the small people. We have had a lot of people come forward here.

I think the process is working to some extent and needs some fixing, but I think that is what we are here to do, look at that process.

The other thing I wanted to mention was about the veto. Even Mr Holtmann, whom we had come from Ottawa, said: "I do not think you really want to go to that extent." That is the past chair of the similar committee in Ottawa. It is not our place to do a veto, as Mr Bradley so often likes to remind me. It is the right of the Premier to appoint. A veto power is not what we want in this committee. What we are getting is a chance to question and a chance to review and a chance to be sure that they have the qualifications, the education and the experience to do the position.

Interjection.

Ms Haslam: Oh, I know, job search. Mr McGuinty says we do not know how this search process is. Every time we get one of these information packets about the Planning and Implementation Commission, it says "search process." When we get it for the Workers' Compensation Appeals Tribunal, it says "candidate search process." There is a process in place, and it is always written and it is always in front of us when we have the candidate in front of us.

Mr Klopp: With regard to some of these discussions we have had, especially Mr Bradley's, on laying out the big illusion, it has not been my political party that has laid out the big illusion that this is something it is not. It is you who have stood up many times in the House and tried to make it look like the big illusion. It is an interesting committee here, that we seem to mix our political party in trying to make a speech. When you brought out the young press reporter, what about the old press reporter who maybe wants to see some changes? It is not us saying this is fantastically new. It is a start. It is has been the opposition that is trying to create that.

On the area of unanimous consent, maybe how your party works is that you can talk all you want but the Premier is the Premier, and you have some political hacks who sit behind you and tell you what button to push and you just look like you are doing something. I can assure you that we cannot even get unanimous consent in our caucus, because we all think for ourselves. But the majority rules. Maybe that is different in your party. It is the same thing in this committee, if it works at all: if there is someone sitting in that chair and all the so-called opposition members decide they are not voting for that person, I am sure that is going to register in somebody's office somewhere, or even if one of us does not vote for it.

Unanimous consent is ridiculous. There is a chance that someone could come in here and I may think, "Well, I don't know if he should get it or not." I do not really look at it as a political decision, whether I am going to vote for it or not. Cam Jackson might say, "Well, I think this person is all right," and we put our hands up and we find out that maybe three over there vote and two over here vote against it, but they should still go ahead.

So the unanimous thing, you know that is more political than anything. The veto thing, well, that is just a joke and you know that. But that is fine.

With regard to the 5,000, as in the Ministry of Agriculture and Food and all the commissions and boards that are on that thing, from fenceline sitters to heaven knows what, it almost verges on the ridiculous. At the same time, it makes government work better, having more people involved in a lot of these commissions. You are not interested in that; neither is Allan McLean or neither is Paul Klopp, quite frankly. We all send names in and we try to get people involved.

It is basically the big fish we want to seem to talk about. I think that is the reality, but we are getting a little bit of political speeches involved in this thing. Certainly, in the little bit I have been here for, five minutes, Mr Chair, you have quite a job. I think we for sure agree that we can get more things and make this better, but get the politics out of it.

One thing that you brought up is that we have more names to look at. My colleague here said that we have an opportunity. I think that is one area where it would be kind of nice, if maybe for the head of the liquor board we have four names come in, or the head of whatever, CRTC or whatever we all do around here. I do not see a big problem

with that. I would agree to make that part of a recommendation, that we see a few more names. At the same time, we are here today and let's get on with it.

Mr Grandmaître: I will try to be very brief. I do concur with Mr Bradley and my colleague Mr McGuinty. I am not going to repeat what has just been said.

I do not want to appear to be stubborn or difficult, but I think we are making progress. I realize that we are making progress this morning. We all agree that the process is flawed. I am pleased to hear this. Everybody wants to look at the process. I thought I was wasting my time, but finally I think we are accomplishing something. I go home in the evening and I ask myself, "What the hell have I done today? Not very much." But I will take this back. I think we are all on the same frequency now. We are all saying that the system is flawed, that we are simply rubber-stamping the Premier's appointments.

But to think that this committee can provide the Premier or his people with some insight, I think we are dreaming. Ms Haslam referred to Mr Brandt, and I have to go back, because Mr Brandt is a personal friend of mine. I even introduced his wife to him.

Ms Haslam: He was a personal friend of everybody here when he came in.

1140

Mr Grandmaître: Yes. I want to remind the members of this committee that Mr Brandt appeared before us three weeks after everyone in this room read that he was appointed. In fact, the Premier had a press conference and appointed Mr Brandt as chairman of the Liquor Control Board of Ontario. I could see in Mr Brandt's grin, "No, Ben, I am only the intended candidate."

This is what I find to be so foolish about this committee. Not that I am looking for a veto. I do not think it would be right. I agree with you that the Premier has a right to appoint these people, and I think it is his responsibility to do this and he should keep on doing it.

But I do not think it is very responsible on the part of the Premier to slough off his responsibility on to this committee and say, "Rubber-stamp what I have to say or what I just did." I do not think it is very fair for a Premier or for anybody else to ask us to rubber-stamp somebody else's work.

I see people sitting in front of us with a surprised look. You are talking about a search process. I have seen people being surprised sitting there: "I just got a phone call from so-and-so." They are surprised. "What am I doing here?" And you call this a search committee, that looked for these people? Do not try to kid us. These people are more surprised than all of us. They do not even know why they are appointed. They say: "Well, look, I just got back from holidays and I got this phone call to rush to Queen's Park. Provide me with a CV. Do you know anything about this commission?" "No." "You will be a great candidate, go ahead. Go before the committee, because they do not have any other choice than approve that one candidate."

It has been suggested that maybe we should be allowed to review two or three people applying for the one appointment.

I do not think it is worth while carrying on. I know we have to work with the process until April or maybe May, until we get together and try to rehash the process, try to improve it. Last night, I did not have much to do. That is why I was questioning myself: "What the hell have I done this week? Not a hell of a lot," so I read Hansard, 20 December.

I was surprised to read some great remarks from the House leader, saying: "Hey, this is not the best, but what the hell, work with it. Do the best you can. There is a sunset clause and we will take a second look at it." We know the system is flawed, in other words.

I find our assembling is refreshing, because they do serve fresh coffee every morning, but that is the only refreshing thing I get from this committee, a fresh cup of coffee every morning. Maybe we should have doughnuts or something, we should have a picnic in this place every day, because it is a farce. We should not have beer advertising, but I think we should enjoy ourselves. Even the media are taking us with some scepticism.

Mr Bradley: You mean this room has not been full of press every day? I am surprised.

Mr Grandmaître: Some people from the Globe and Mail and the Star have been phoning me. They find it very surprising. They say, "Ben, any news?" I say, "No, it is the same damned thing."

Ms Haslam: They do not call me.

Mr Grandmaître: They know that you are being pushed, you are being told, you are a puppet on this committee. You have to do what you have been told. I hear these people saying, "Hey, there is a difference in the system." You did not even know what was going on before. You did not know there was a process that was in place before. You think that by being a member of this committee now you have your share of responsibility and you are going to do great things.

I think we should carry on with this great process that is flawed. I am glad to see that most members are agreeing that we should look at the system and report back to the government. I repeat the same thing that has been said around this table for a number of weeks now, that we do not have much else to do, so lets spend the government's money and waste time and be a member of the government agencies committee.

Mr Jackson: To think that I was disappointed that I was not going to be a permanent member of this committee. I just want to share a couple of observations from someone who has in the last six years been off and on this committee. I have worked closely with both the member for Leeds-Grenville and the member for Simcoe East. We have seen a slow evolution in the processes for this committee. I want to share a couple of points. One, I guess the longer I am here, the more I realize the more the changes, the more things stay the same. Political parties act predictably and consistently in any one of the three, and only three, positions they find themselves in, government, opposition or minority. I have had an opportunity to serve in all three environments and I am struck by this notion.

A couple of illustrations: A document which I review quite frequently is the accord document which allowed the third party to elect the second party to become the government of the day in 1985. As I recall that document, on page 3 there is a reference to reforms to the appointment process. It was called for and I also recall the articulate, bright leader of the third party of the day indicating that the veto process was an important component. This has all been lost on a lot of people. I distinctly remember it because for 21 days I was in a position as the government to make appointments. I did. I recommended two individuals. They are both women. I am pleased to say that they were extremely well qualified and well received and to this day are still holding those positions of responsibility because I believe they were good appointments and obviously they have sustained there.

I think we have to be careful that we do not all get caught up. When we are in government, we become arrogant. When we are in opposition, we become self-righteous. Really we should take one step back from the process and simply suggest that we have identified a process which is flawed, which requires further scrutiny. I concur generally with the statements that are being made on this side of the room, if I can say that. That the process being discussed as an objective is working effectively, I do not agree with. I do not think a year from now or two years from now, following the same track, we are going to prove that more time added is going to be more helpful.

Really, what is it we can do to suggest to this committee be done in order to alleviate some of the concerns raised by the government of the day, which when in opposition had those views and has tempered them immensely? Perhaps the solution lies in being rather specific on some commissions and boards. Because of the issues of equity, the representation of various citizens in this province, whether they be disabled, whether they be women, whether they be an identified minority group, native applicants, in my view there are serious deficiencies in the appointments process.

Nowhere am I satisfied that there is really a concerted effort to ensure that those candidates are brought forward with any degree of priority on the part of the government. I very much see a role for this committee in ensuring that this becomes an objective, and yet I am not getting a sense of that.

1150

We have seen social issues, such as the whole presentation with PRIDE. I thought it was excellent. He came to this committee with advice, as we have heard in the past, that we can be effective. He actually was suffering under the notion that somehow his presentation would manifest itself in our ability to select members to that board who might be more sensitive to the issues he has raised. I felt badly that he somehow felt that he was helping to change the process of selection. He is essentially talking to the wrong people. He should be talking to the ministry people. Yet his whole presentation was that the very people who were bringing forward the nominees to us are in fact the very people where there is a problem.

So I see problems. I am prepared to work with the system. Heck, that is easy; I am a substitute member of the committee. But I do expect to participate actively in something I believe in and that is to make the process work better. I would hope that the committee would be sensitive to the issues I have raised about issues of equity and representation, and not simply qualifications. I feel very strongly about that and have made those statements publicly. Those are my observations. I certainly know that over the next four years we would be better served to try and improve the process beyond what is being suggested is going to happen.

Mr Perruzza: I guess I will go back to something I stated the other day. I felt that it was too early in the process for us to be stopping and having this discussion. I realize that this particular issue was raised by one of our members, and suggested that we needed to have some discussion tailored around a process. I felt at that time that the discussion would veer off some positive, procedural, technical changes to the way we interview and process recommendations to what has happened here today, and that is just a round of bashing towards government intentions and government rights.

A number of suggestions have been made by some of the opposition members, and I will go through some of them. The idea was raised that we should have a veto power, that there should be equal representation here on the committee and so on, and that we are really talking about creating an illusion for the people of the province of Ontario. There is no illusion for me when I come here. The subcommittee chooses some candidates to interview, we interview them intelligently, we garner a lot of information and then we vote on whether or not that particular individual moves on from this process.

To date, I noted one of the Conservative members left the room when dealing with a particular member. He shuffled off, kicking the mud off his boots and so on. Other than that, I have not noted any of the opposition members voting against any of the candidates who have appeared before us—or perhaps one—and the suggestion there is that they have concurred continually with the people who have come before us based on their merit, based on their qualifications, based on their experience and so on and so forth.

The only thing I can infer from Mr Bradley's suggestion is that he really wants the Premier's powers here. You say: "Give us the veto. Give us equal representation." The fact of the matter is that it has never happened. This process never happened or was available to previous government backbenchers as well as opposition backbenchers before the NDP came to power in this province. You are right. We were elected to do a job and this is part of the government's mandate, to appoint people to government agencies, boards and commissions, and that is precisely what we are doing. If Mr Bradley wants the prerogatives and powers, then he should look to getting those at election time in seeking the leadership of—

Mr Bradley: You are burying yourself.

Mr Perruzza: —his party and taking his message to the people of the province and to be elected—

Mr Jackson: Having the powers that Bob Rae has.

Mr Perruzza: Exactly. He will have exactly those powers and he will make exactly the same kinds of recommendations and so on.

There is something implicit in some of the comments that were made by the opposition members, and that is they are questioning the integrity of the process right at its origin in the Premier's office, and I think that is wrong. I think it is wrong for us to start levelling those kinds of accusations this early in the process—two weeks into the process, may I add—that someone at the source is not screening or recommending people to us who are either appropriate or well qualified.

That is simply is not the case. All those people have been supported and endorsed by the opposition. If the opposition has any serious reservations about any of them, it has the press at its disposal to voice its oppositions and to get its message out to the people of the province. That has not happened to date, and it has not happened because the people who have come before us have been well-qualified, well-intentioned, well-meaning people, and they have supported all of those appointments.

There is also another implied undercurrent in some of the comments that were made, and that is that this particular side of this room is going to simply vote in favour or unanimously appoint all the people who come before this particular committee. That is simply not going to be the case, because nobody is going to pull the string on my vote and if I feel strongly about a particular candidate, and feel that particular person is not qualified to do a particular job, then I will vote against that person, and when it proceeds from here and if the recommendation does not carry in the affirmative when it moves from here, that will be dealt with accordingly by the appropriate person in the Premier's office.

We will deal with that particular issue when it arises. I do not want veto power. I do not want veto power here at this committee. I do not feel that is what this committee is—

Mr Jackson: I hope you have a second committee picked out.

Mr Perruzza: I guess I will conclude. I understand that some of my colleagues want some time to make some comments as well. I will conclude again by saying something that I said the other day: I think we should stop playing politics. I think we should give this process an opportunity to work. I think we should continue to do the kinds of things we have been doing. I think things have been proceeding relatively well. It is not perfect, but I think we are doing well.

Mr Waters: Now that we have spent approximately an hour talking about changing the terms of reference and not anything about process, it is interesting—

Mr Jackson: Was that on your note that the staff gave you?

Mr Waters: No, that was not on my note. I just looked at the clock.

Interjection.

Mr Waters: That is why I thought maybe we would go in camera, because I knew what was going to happen if we did not, and I am a little bit perturbed about that because we are not going to change the terms of reference. That is why I mentioned the fact that we should set some time aside near the end of this and make some recommendations back.

As to the terms of reference that are there, I think we should start working with and working within them, one of them being that there should be seven calendar days from the time that we select a name to the time that he comes before us, so that not only do we have the time to do our homework but so too do those people have the time to prepare, because that was embarrassing for that lady the other day, I think, coming in here. She was probably a very credible candidate for that job, but the process let her down and unless we start talking about the process under these terms of reference and dealing with trying to make that process work, we are not going to gain anything.

1200

Someone said that we just rubber-stamped the Premier's appointments. I never said that and I do not believe anybody from this side said that. I truly believe we should give it a chance. Let's see what happens if we send back a negative recommendation. Give us a chance to work these things out. That is what this is about. I would like to see that we start following some of these guidelines. I would also like to see that the interview, and I ask your indulgence in listening to this, we give them one week, so that if we have some concerns as a committee, we can take those concerns back and get further information before we make that decision. I think that is important.

One of the other things I have seen is that on all sides there has been a lot of subbing. That is a problem with this committee, because what you have is people being interviewed and other people saying yes or no to whether they get the appointment or the recommendation of the committee. I would like to know if there is not some way that we could maybe even look at so that if you had a sub when you were interviewing, that at least for determining whether you are going to support that person, the recommendation is that that person be there that day. I do not know how that works procedurally within most committees, but that person would have to come back and be there that day.

There are some things I think we should have been talking about, the procedures within these. We could have done something this morning instead of sitting here and trying to make political gain that we can use in Hansard down the road. I am upset about it.

Mr Bradley: It has happened for the last four years. How can you lecture members of this committee? The New Democratic Party was—

The Chair: Order, please. I am not going to allow that kind of harangue across the floor to continue. I think that essentially this has not been harmful, even though we have had different opinions on both sides of the floor. I think it

has probably been healthy to have the concerns reinforced and Mr. Waters's views expressed on the terms of reference.

We are somewhat constrained in what we can do by the standing orders. There is some flexibility within those standing orders, but it is limited. I think Ms Haslam correctly pointed out that when the standing orders were drafted, I have to assume they were drafted for our sitting when the House was in session and did not recognize the situation we are going to be faced with during a recess.

I do not think it is going to help us to get into an across-the-floor battle here, a political battle at this point, because we have to work together in the coming weeks and months. I think Mr. Waters's suggestion is certainly one we all agree upon in terms of some time having to be set aside, whether it is in April—I suspect it will be in April if we are going to have some considerable time and I would suggest that we are not—maybe this is not appropriate for the Chair to make this suggestion, but I suggest that we are not going to see a unanimous report coming out with respect to the terms of reference. It would be ideal if that did occur, but I suspect the feelings are obviously quite strong on both sides of the room, and we may see one or two minority reports also tabled in respect to the permanent standing order.

I am not sure we can do much to change the process we are now engaged in. We are going to be back in session in March and we are really not going to be—I do not believe, and I stand to be corrected—dealing with any more appointees before then, are we?

Clerk pro tem: None, at least at the moment.

The Chair: We are going to be back into the regular session and dealing with it in that process as envisioned by the standing orders. We will have that experience to fall back on when we deliberate the temporary standing order and what we would like to see appear in the permanent order.

Ms Haslam: Does this mean we will not be talking process every time we come again? This seems to be a natural topic that arises every time we come, and I think the point of this is that we were talking process and now that we know we have a time in April to talk process, perhaps it is time to get back into what we are supposed to be doing.

The Chair: I think the point is—and you have a position; other members have perhaps a different position—when we are talking about process when we are dealing with appointees, for example, there is a time allocation. We all agreed to that. How members wish to use that time allocation is their decision. If they want to talk about what they see as the failings of the process, they can use their time for that purpose.

I say we will spend perhaps two weeks or three weeks in March and April while the House is in session and have some experience under our belts before we start to deliberate on what we want to recommend to the House in May. But I do not see there is much more of an effective thing that we can do in terms of the changes to the process. Actually, we are not going to be experiencing any more interviews, if you will, until the House is back in March.

Mr McLean: On a point of order: It was my understanding that we were here to discuss how the process has gone so far dealing with people who have come before us. I think most members have expressed what they feel and how they feel the process has gone; whether anybody agreed with one another or not is beside the point. But the fact was that people have expressed it and I think that is what this morning was all about. I have not said much, because I certainly have not expressed my total facts.

Mr Perruzza: Where is the point of order? That is what I do not understand.

The Chair: I am being generous because Mr McLean has not spoken much.

Mr McLean: You will learn some day.

The Chair: I will concede there is no point of order there. If you wish to have the floor, though, I will give you the floor.

Mr McLean: No.

The Chair: Okay. I appreciate your explaining your position.

Mr McLean: Mr Waters is still on the agenda.

Mr McGuinty: If we can do something a bit more concrete this morning, I wanted to put forward a motion relating to Ms Phillips's response to the request. I guess it was an informal request that had been advanced by the clerk of the committee. I wanted to move that our committee formally request Ms Phillips or whoever the appropriate person might be—I am not sure if that is the appropriate person—in any event, that that person provide us with a list of all positions filled by orders in council and a list of all the positions from among the foregoing list of positions which are not subject to review by our committee.

Mr Perruzza: That is not within the purview of this particular committee.

The Chair: The committee has the right. I already indicated we have the right to send for papers and things.

Mr Perruzza: I want a recorded vote on this.

Mr Bradley: Oh, yes.

Mr Waters: Can we have that read back? I would like to have that motion read back to be clear on what is being said here.

Interjections.

The Chair: Order, please. The clerk will read the motion.

Clerk pro tem: Mr McGuinty moved that the committee formally request from Ms Phillips that she provide us with a list of all positions filled by order in council and that she provide us with a list of all positions from the foregoing list which are not subject to review by the committee.

Mr Perruzza: I would like to challenge the Chair on his ruling. I think that is an inappropriate motion to be brought forward to this committee. I think that it is not within the purview of this committee and I challenge the Chair on that.

The Chair: All right. I put the question: Shall the Chair's ruling be sustained? My ruling is in essence that it is an appropriate request for this committee to make. Mr

Perruzza has challenged it. It is not open to debate. I am putting the question.

Mr Jackson: On a point of clarification, if I may, Mr Chairman: I thought I witnessed that your prior ruling was not challenged and I am not comfortable, nor do I understand how our rules deal with subsequent challenges. Okay, I will not speak to it; I cannot speak to it. I thought I had witnessed that you had given a ruling and it was not challenged.

The Chair: As I understand it, Mr Perruzza is challenging my ruling on Mr McGuinty's motion being in order.

1210

Mr Jackson: I understand that. Has he specifically challenged your ruling on the motion? I thought I heard Mr Perruzza challenge the Chair's ruling with your authority to ask the question. That is what I thought. I do not have Hansard in front of me.

The Chair: We will get clarification from Mr Perruzza. My understanding was he was challenging my ruling in respect to Mr McGuinty's motion. Do you want to clarify your intent?

Mr Perruzza: I am sorry, Mr Chairman, say that again.

Mr McGuinty: What is your challenge?

The Chair: Your challenge is based on what? You are challenging what?

Mr Perruzza: I do not think that type of motion or the motion he intends to introduce after we vote on this is within the purview of this particular committee. I think our terms of reference have been fairly clearly defined. I think some of those appointments etc are being—

The Chair: You are challenging the motion. We do not have to go on with this. You are challenging the motion, and I have said the motion is in order.

Mr Perruzza: —excluded from the terms of reference of this committee and that is why I feel if the motion were within the terms of reference—

The Chair: That is fine. There is no debate allowed on this. You have made your request.

Shall the ruling of the Chair be sustained?

We were asked for a recorded vote. Mr Perruzza asked—no, he did not. We did not have a recorded vote.

Shall the ruling of the Chair be sustained? Opposed?

We are going to have to call for a formal division on this.

Is the ruling of the Chair sustained?

All those in favour?

Mr Klopp: What are you voting on, Mr Perruzza's challenge?

The Chair: Mr Perruzza is challenging the ruling of the Chair that this motion is in order.

Mr Klopp: I thought you just make straight decisions, Mr Chairman, yes or no.

Mr McGuinty: A point of clarification, Mr Chair: Perhaps you or the clerk could explain to me, technically what does a challenge mean? I thought it meant that the challenger would have to appear and make argument before the Speaker of the House.

The Chair: I am not going to allow that sort of debate to occur. I think it would be inappropriate. We will have the ruling on the motion and then I will indicate what the procedure is.

The committee divided on the Chair's ruling, which was sustained on the following vote:

Ayes–5

Bradley, Jackson, McGuinty, McLean, Runciman.

Nays–4

Haslam, Perruzza, Waters, Wilson, G.

The Chair: Drawing on the best advice I can, since we do have a tie vote, I am simply going to say that the motion is in order and we will proceed from there.

Mr Jackson: Now we vote on the motion.

The Chair: We now have the motion before us and hopefully everyone understands the intent of the motion. It is a follow-up to a request. We made a verbal, informal request of Ms Phillips several weeks ago for a list of OIC appointees who were not going to be subject to review. Mr McGuinty's motion now asks for a complete list and also distinguishing from that list those appointees who will not be subject to review by this committee. Any discussion?

Mr Waters: I would like to make an amendment to that motion, that rather than we ask for that to be supplied right now, because I believe it would be—wait a minute, I cannot say that, can I? I would like it amended to say that as these come up, they be forwarded to the committee, instead of forwarded at this point in time in its entirety.

The Chair: I do not think that would be in order. Yes, it is not going to be in order as an amendment because it is inconsistent with the motion.

Mr Jackson: The request was for a complete list, not as they emerge. That was his ruling.

Mr Bradley: Speaking in favour of the motion, I believe that this kind of information would be very useful to both the committee and ultimately, through the committee, to members of the public. We want to view the process to see just how much power the committee has, just how much difference has been made. I think it would be very useful for the public of Ontario, as well, through the auspices of this committee, to be aware of that. By having this information available, it would certainly assist in that regard.

I cannot believe that people who say they are in favour of openness in government and who have long advocated openness in government would now want to prevent this kind of information from coming before this committee and ultimately before the people of Ontario. Surely this is once again a test of whether the rhetoric is going to be matched by the action, and to provide this. I would certainly be complimentary if we see the government members supporting this motion, which I think would be very useful to see where this committee stands in the appointments process. So I would strongly urge members from all parties to support it.

Mr Jackson: Mr Chairman, I think for the record it should be noted that Mr Perruzza requested a recorded vote. I will support the motion. I think it passing strange that this list was available to us from the previous governments, but may not, it would appear, be available with the new government. I am most fascinated, but it is clear that we certainly will be voting in favour of it.

Mr Perruzza: If I can shed some light on this, I think what I would urge my colleagues to do—and I understand what Mr Waters's intent is. I particularly have no objections to these lists being made available. I do not feel and I did not feel that it is within the terms of reference of this committee to ask for that kind of information, but I have no objection to making that available.

I think what I would urge my colleagues to do is to vote against this particular motion. Then, because of the massive amount of work that would be involved in publishing such an extensive list at this particular time, I would propose to introduce a motion whereby we access this information as it comes available from the Prime Minister's office—from the Premier's office, and he is the Prime Minister of the province of Ontario—as the appointments are made to this committee. So I would urge the committee to vote against this motion. Mr Waters can introduce a subsequent motion that will do exactly what he intends to do without making amendments to Mr McGuinty's motion.

The Chair: We have the motion on the floor before us. Any further questions or comments on the motion? All in support of Mr McGuinty's motion? Recorded vote.

The committee divided on Mr McGuinty's motion, which was negatived on the following vote:

Ayes–4

Bradley, Jackson, McGuinty, McLean.

Nays–5

Haslam, Klopp, Perruzza, Waters, Wilson, G.

The Chair: The motion fails.

Mr Perruzza: Mr Chairman, I move that this committee be supplied with that information as it is made available through the Premier's office on a continual basis.

The Chair: Any discussion on Mr Perruzza's motion?

Mr McLean: Is that motion in order?

The Chair: I see no problem with that motion.

Mr Jackson: Mr Chairman, I did not introduce a concept which is of great concern to me, in that the current labour government of this province—already there has been some discussions about the vestiges of a labour-vetting process at the cabinet level. I think it is rather dangerous, and I am on public record as saying I think it is rather dangerous, that certain policy decisions of the government of the day are having undue influence by this group and I am concerned with the potential for their involvement in the selection-appointment process.

I think that what is important, in the spirit of having this list available for the public to see, is that all candidates would approach the government expressing their interest, as opposed to certain groups that are certainly enjoying—I think the throne speech made reference to these groups that previously have not had access to the corridors of power, and now that they do have access or control, depending on how you read it, that this does not manifest itself in the appointment process. I think it is a healthy process that we get the complete list.

Therefore, the way the motion is, I see it very much as a tool for various labour groups that have influence with this government to use the appointments process to their advantage, and I for one would not abide that. I think we mitigate that process by ensuring that the public sees the whole list and not when it is convenient to the government to let people see it.

1220

Mr Bradley: There is no doubt in my mind that the original motion was the legitimate one, which was going to provide the information in a timely fashion, in the kind of fashion which would be valuable to both this committee and the public. What we have just seen is in fact an attempt to sidetrack that through this motion. The value of it is being able to see the clear picture, the total picture. I can see the unease with which the member who proposed the motion viewed this particular motion on behalf of the member for Ottawa South.

Once again, I implore those who have been great advocates, in opposition and in other places, of openness and of a new look to the government of Ontario to sustain that rhetoric with the kind of action that would have been provided by the motion from the member for Ottawa South and not simply this motion to sidetrack. This motion clearly, if members were to vote for it, would change very little in terms of the process at the present time. Support of it would simply indicate that we are prepared to allow the government, in its own piecemeal fashion, to do as it sees fit, instead of allowing a legislative committee to have this information available.

Mr Waters: As a member of the NDP caucus, I have some concerns about Mr Jackson's statement about it being a labour government, because it is not a labour government. We are the New Democratic Party of Ontario. I would like to straighten that out, Mr Chair, through you.

Mr Jackson: Then be new and be democratic.

The Chair: Order.

Mr Jackson: Sorry, I apologize.

Mr Waters: All we are saying is that in the interim, because of the time and the amount of effort that it would take to get that information, give us a chance to do it in an orderly fashion. We are not saying we do not want to give you the information. What we are saying is that as they come up, we will get them to you as soon as possible. That is all that is in this motion. It is not a motion to limit the amount of knowledge that the committee has on any given topic as to who is being appointed to what. All it is saying is, there is a rational way to do it and we are proposing that.

Mr McGuinty: I want to express my disappointment at the turn of events, Mr Chair, with respect to the defeat of my motion and the subsequent introduction of this new

one. I think more than anything it speaks to the commitment that the members opposite have with respect to fulfilling the objective set out by the Premier. That was something I have called in the past and I have no hesitation calling again a noble and worthwhile objective.

I would implore them to look to their own consciences in this matter and to remember their constituents when they knocked on doors, rather than the gentleman in the grey suit who approaches them from time to time and gives advice. It is unacceptable for you to respond that you simply cannot prepare this list. I think our obligation, and I speak to you as rookies, like myself, is to ask what could be and ask why not, rather than to look at what is and say, "Maybe there's not much we can do to change that."

I think it does not matter how much time it takes to prepare that list. The government of Ontario, this particular government in its capacity as a fiscally responsible employer, has an obligation to prepare that list, and we have an obligation, as members of the committee, to obtain it and to use it to our best advantage in fulfilling the obligations imposed upon us by the Premier in creating this committee.

Ms Haslam: I just point out that there are three complete binders in the library of order-in-council appointments. They are available in the library. You also want to know staff appointments. This committee does not deal with staff appointments, this committee deals with public appointments; therefore we are saying, as these public appointments come forward, that information is there for you. The other is already available to you in the library.

Mr Jackson: I apologize for commenting a second time, Mr Chairman, but I feel one of our problems is that several members of this committee do not accept the truth of the statements contained in the memo that this is such an awkward and difficult piece of information to obtain. Those who have been in government know that the documentation is available. Some have even seen it. Therefore some of us reject out of hand the efficacy of the suggested advice as contained in that memo.

I would like to ask, just as a point of personal understanding, if the person who has been advising the NDP caucus can be identified to us. I feel most uncomfortable not knowing who this individual is. I know that this has been called upon in the past committees. There has been an excessive amount of sidebar discussion and notes passed and motions apparently written. I for one would feel a lot more comfortable if the individual who has been so helpful to the NDP were identified for us. I just make that as a member's privilege request.

Mr Perruzza: Mr Chairman, the motion that I introduced, I introduced on my own—Hansard has it for the record—without coaxing or people whispering in my ear. There has been no extraneous outside influence. I think this side of this committee has conducted itself in a very responsible manner today. If there is an implication from Mr Jackson that that is not the case, then Mr Jackson should come out and clearly say that.

Mr Jackson: I did not make an accusation. I observed an event and asked if the Chair would assist by identifying someone in the room. This is quite a common request in committees if you are not familiar with that.

Mr Bradley: You are in trouble now. The real whip is here.

Mr Jackson: I just specifically would like the individual who is in the room to be identified and that is all, for the record. That is a simple request.

Mr Perruzza: Mr Chairman, I would like to ask that all the individuals in the room be identified at the same time, please. Thank you.

Ms Haslam: Thank you. I agree.

The Chair: I will take Mr Jackson's request under consideration and advise him when we break who the gentleman is. That may resolve the situation, perhaps not to everyone's satisfaction. In any event, we have the motion. Do you want it re-read?

Mr McGuinty: Yes, please.

The Chair: Mr Perruzza moves that, as order-in-council appointments are made that are not within the purview or terms of reference of this committee, that information be forwarded to this committee concerning the positions that have been filled as they are made available.

Mr Jackson: —appointees that are dealt with by the committee. It is not those who are and those who are not; it is just those who are not.

The Chair: Any further discussion on the motion? I am calling the vote if there is no further discussion. All in favour of the motion?

Mr Perruzza: It is recorded.

The Chair: You are making that request now? You did not earlier.

Mr Perruzza: I thought they all were.

Clerk pro tem: No.

The Chair: Opposed? The motion carries. Anything further before we break for the day?

Just for Mr Perruzza's information and perhaps the other members of the committee, if you read the statement I made the other day, I will not get into debate on the challenge to the Chair, but the standing orders give standing and select committees the "power to send for persons, papers and things," except when the House otherwise orders. This committee has that full authorization under the standing orders of the House.

Mr Perruzza: Even when it is not within its jurisdiction and terms of reference?

The Chair: It is within the standing orders of the House, in any event.

Mr McLean: On a point of clarification, Mr Chairman: Are all the members who voted on this motion subbed in or members of the committee?

The Chair: They are all correctly subbed, I am advised.

Mr McLean: They all have sub slips? Thank you.

The Chair: Nothing further? The meeting is adjourned.

The committee adjourned at 1230.

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Le jeudi 7 février 1991

Standing committee on government agencies

Appointments review process

Comité permanent des organismes gouvernementaux

Procédé de révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 7 February 1991

The committee met at 1407 in committee room 1.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

The Chair: I call the meeting to order. I think we are in for an interesting afternoon, as a matter of fact. I would like to call our witness this afternoon, who is Dr Louis Fisher from the US Congressional Research Service. Dr Fisher, would you like to come forward please.

Ms Haslam: Mr Chairman, could I just interject here? First of all, I wanted to say welcome, but I wanted to apologize and explain that Pat Hayes is held up with some picketers apparently at his ministry and will come in late, and I hope he does not disturb you. I also wanted to mention that Mr Frankford, originally on this committee, is in the hospital. But he had asked for copies of the Hansard and I wondered if that could be done for this committee. He would like to look them over.

Mr Bradley: Is he in hospital? Is he ill?

Ms Haslam: Very ill. He has undergone an operation.

US CONGRESSIONAL RESEARCH SERVICE

The Chair: Dr Fisher, on behalf of all members of the committee, welcome. We appreciate your taking time out of your schedule to travel to Toronto and appear before us to provide us with some advice in respect to the appointments review process in the US Congress.

What I would like to do at this juncture is just turn the floor over to you and perhaps you could describe how the system operates in Washington—I know you have had some opportunity to take a look at the temporary standing order—and any comments you may wish to offer in respect to that. The floor is yours.

Dr Fisher: Thank you very much. I came here partly for selfish reasons. My basic interest at the Library of Congress is separation of powers, so whenever I come upon a country with a parliamentary past that is using certain checks and balances, I like to see what is going on. As some of you know, I went to Bulgaria last week on an American Bar Association trip giving assistance to countries in eastern Europe. They are very, very interested in separation of powers and checks and balances, and we spent a lot of time talking independence of the judiciary.

I thought what I would do is look through the terms of reference in the paragraphs and make some comments about how that contrasts with the role of the US Senate. Then you can ask further questions.

I have some documents with me. I do not think they will be too helpful to you, but I certainly brought up and will leave with you the rules of the US Senate with regard to nominations. Then each of the committees has a role in nominations in the Senate and they have their own separate rules, and I brought up some representative committees and will leave that with you as well.

I gather under your system you are the only committee that reviews appointees, whereas in the US Senate many committees do. At least at our level, the review of appointments has a very important role in communication. It is not just whether an appointee is qualified or not. The process is one in which executive officials and legislators are able to communicate about a specific person as to whether that person is the right one to carry out programs, what those programs are, educating that nominee. So there is an informal process of communication that is a dividend to it regardless of how the committee acts on the nominee.

I notice in paragraph 1 the Lieutenant Governor in Council or the Premier has to provide you with certain information about the person to be appointed, the position description, summary of the person's qualifications, and you go into that a little bit more in paragraph 10.

I guess one big difference in the US Senate is that it receives from the executive branch information, but of course it has its own independent research capability, its own team of people who can look into that person's background and credentials, receives information from outside sources, and one of the things I will leave with you from the Senate foreign relations committee, which is concerned, say, about ambassadors, what has been its role, and it will want to know very specifically about what that person has done in terms of contributions to the political party of the year, whether that was the reason the person was brought up as a nominee, what that person's qualifications are for the post. We have become much more concerned about financial contributions and conflict of interest for nominees. Committees will spend a lot of time looking into that.

Paragraph 4 talks about the committee's task being divided between various parties. I do not know how it operates here, but in the US Senate the responsibility for the nomination process is totally with the majority party, although for the US Senate to operate it always needs bipartisan activity. The reason for that is, most of what the US Senate does on the floor is for the party leader, the majority leader to say, "I ask unanimous consent for all of this," a deal that has been worked out between the parties, and since he is asking for unanimous consent, any one senator can object and kill it. So there is in the nature of the US Senate, even though the majority party is formally and officially responsible, obligation for bipartisan co-operation on the floor and in committee and the committees generally work that way.

Paragraph 5 for you, of course, implies that the intended appointee need not be called as a witness. For us, the nominee must appear. That is the whole purpose of the

nomination process, so that you can develop between the nominee and the committee what the programs are, that they will be carried out as enacted.

You have other provisions which are different from ours. If you do not act in a certain number of days, it is assumed that the name is reported to the floor and approved by the floor. For us, those prerogatives are centred in the committees. The US Senate on the floor always has power over its committees. If the Senate committee does not act, you can always yank it from the committee, but that is not the way it works. Through committee and decentralization you depend on the committee and if the committee decides not to move, the name is dead. At some point the executive branch recognizes that and it withdraws the name. That is all that can be done. There is no way you can get approval without committee support.

Committees sometimes could take no action and say, "We haven't reached any agreement and we are going to give it out to the floor and let the Senate as a whole act on it without any recommendation from us." That is an option and sometimes that is done. If it is done, it is certainly a cloud over that nominee. So we would not have a provision, as you do, in paragraph 9 where a committee, subcommittee could waive its right to review an intended appointment. Paragraph 11 for you limits committee review to no more than three hours.

I brought along from the Senate judiciary committee its calendar describing what it has done for the year. There is a separate page calendar of nominations. You go down by what the office is, who the person was and what the committee did, so the page I will leave with you is US Supreme Court Justices, and the first one is Bork, Robert H., referred 7 July 1987 to the Senate judiciary committee, hearings held for 12 days. Of course, he is not there for all that. He is there maybe half the time and then witnesses from the outside come in. It shows what the committee vote was: ordered the name unfavourably reported. In our case, we do not always have a report. We rarely would have a written report to a company or name. We do in the case of Bork. We do in the case of a few others. But most of the time no written report is required. The name goes out for debate but usually not a record as to what the committee did and why it did in terms of the rationale.

Paragraph 12 for you prohibits the committee from calling anyone as witness other than the intended appointee, as I have mentioned. Committees generally invite people from the public sector, from interest groups, professors, experts, often people who would testify in support of the nominee, senators or representatives from that state who would like to make a statement for the nominee. It is a fairly elaborate process.

Paragraph 13 has some restrictions on you, when you shall vote to concur or not, the time for that determination. Those matters are left of course, under our system, to the Senate committees for their decision; they are not directed through central rules.

Just a few other comments. Paragraph 14 states that a committee report will be automatically adopted by the House. It can even permit adoption when the House is not meeting. It does not happen in the US Senate, where the vote by the Senate, under the Constitution, has to be done as a body. It would not be done, under our Constitution, just because the committee had acted or not. It has to be a full-floor action for us.

As I understand the huge differences between your system and ours, it is interesting to me that even on the basis that you have, there is opportunity at the national level in Canada and in some of the provinces for some review by committee. I would be interested, before I leave today, to get a better understanding as to what has brought that to pass. It is a fairly new development for you.

I will leave the documents I brought up with me and respond to any kind of questions you have about the system as it operates in the US Senate.

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The Chair: Thank you very much, Dr Fisher. I am sure we will have lots of questions. Our first questioner is Mr Grandmaître.

Mr Grandmaître: Yes, doctor, in your opening remarks you did say, or I did understand, that you had many committees approving or reviewing appointments or nominees. Can you tell us a little more about this, how many committees and how they work?

Dr Fisher: It is not a constitutional issue for us at all in terms of language in the text of the Constitution. It all depends on how each, the House of Representatives or the Senate, wants to regulate its activities. The Senate initially did not have standing committees. They would have temporary committees, but within a decade or two we had standing committees, and once they became standing permanent committees they began to acquire prerogatives in their area of jurisdiction. So not only would they have jurisdiction over legislation in that area, say, foreign relations, any bills relating to that, but then they would have jurisdiction over whatever else in government would attach to it, including nominations. We have developed a system where a committee on foreign relations will control designated appointments; a Senate committee on judiciary, of course, judges and US attorneys and marshals; a committee on commerce, many appointments, so whatever subject area they have and whatever agencies and departments as a subject matter will go with it, nominees. I would say practically every committee in the Senate has a role in the nomination process, depending on the jurisdiction.

Mr Grandmaître: These committees have to file a report to the House, or to whom?

Dr Fisher: The Senate committees would report their findings on nominees to the floor of the Senate. The House of Representatives has no role in the appointment process formally; informally, it could, under certain circumstances. So the name would go from the President to the Senate committee. They would consider it. If they decide to act favourably, it would come out on the floor and then every senator has a right to vote on that nomination.

Mr Grandmaître: As you know, we do not have a veto, not that this committee is looking for a veto power, but—

Mr Bradley: Some of us are.

Mr Grandmaître: I am speaking for myself today. But we are limited as to the number of positions we can review. We are limited. We have a list of people whom we call the untouchables, whereas if I understood your remarks, everybody must appear before a committee back home.

Dr Fisher: That is true.

Mr Grandmaître: Everybody, I see. That is very interesting.

Dr Fisher: I will qualify that a little bit. The US Senate actually gets involved on appointments of military people. I entered the army in 1957. In 1959 I went from a second lieutenant to a first lieutenant. That gets action by the US Senate, so if you look in the Congressional Record you will see page after page after page. These are nominations and appointments, and obviously it is done en bloc. There is no way you can individually consider those. So there are a multitude of offices and appointments done without any kind of process we are talking about now. But when you get to heads of departments and deputy heads and assistant secretaries and so forth, those definitely come up before the committee and go through this process.

Mr Grandmaître: Did you have to appear before a committee?

Dr Fisher: No. That is all done in a fairly automatic way. Only if someone out of a list of thousands and thousands has information on a particular person, then that could become an issue. Otherwise it is routinized.

Mr Grandmaître: I know you have only had a short time to look at our terms of reference. Can you, in your own words, describe the pros and cons of our terms of reference?

Dr Fisher: No. I can compare the differences between ours, but the terms of reference for you comes out of your own parliamentary system, and judgement from me, with our very different separation of power, would not make any sense. What always is of interest to me is that you may be considering, on a lesser scale, some little bit of a check and balance system here. In the United States, we certainly do not adopt a parliamentary model, but we have moved in many instances to centre power in the executive branch, a little bit like a parliamentary system, so I think the two systems seem to borrow from one another.

Mr Grandmaître: But you will agree that your committee system—let's call it a system—has more power than this committee?

Dr Fisher: The committee system in the United States has more power because Congress, as a body, has prerogatives given to it by the Constitution. Even when the President is of your own party, members of Congress will often decide, "Even though it embarrasses my President, I have a duty to protect the prerogatives of Congress."

Mr Waters: I am curious. You are saying that in your system, the appointment of virtually everybody, including the local bee inspector, would have to go before a committee. I was just wondering how many people a single committee would look at in the course of a year. Not all of the committees, because in our case we only have one, but we are looking at somewhere around 5,000 appointments or something. How many would come before any individual committee in the US system?

Dr Fisher: It is a massive number, but of course the staffing of the committees is very substantial. What would be the number of staff here for Parliament?

Ms Haslam: Two.

Dr Fisher: Not just in the committee but in Parliament as a whole.

Ms Haslam: Two.

Mr Waters: Virtually, that is it, is it not, that the Legislature has committed to this process. It is a new process and we have two people at this point.

Interjections.

The Chair: Mr Waters has the floor. You can all have an opportunity.

Mr Waters: The Premier's office has a staff, but those are political people. I am saying the Legislature. I am saying there is a difference. The Legislature has committed two people to this committee.

Dr Fisher: The US Congress, if you count committee staff and personal staff, would probably have towards 20,000 staff. I am with the Library of Congress, with the Congressional Research Service, and we do 100% work for members and committees; we are 800. Then Congress has a General Accounting Office to help on investigation; that is close to 5,000. Congress has a Congressional Budget Office, about 200, and Congress has an office of technology assessment, maybe a little over 100.

Actually, the committees with all that staffing could not do the job we are talking about, because a lot of the work for committees—they get a lot of good information from private groups, industry groups and labour groups who are watching this process. They are badly called lobbyists, as though they have some ulterior motive, but they have good information. So that expands the information and all that is brought to bear.

Mr Waters: But the local beekeeper, bee inspector, something like this, does not necessarily go before a committee.

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Dr Fisher: No. Much of that can be done in a very routine fashion. For all the policy-making positions, the concern of Congress, different from you, I think, is that it pass the statutes adopting national policy and then people come in to appointive positions who do not like the programs and are not going to carry them out. You want to make sure that that person understands the program, has a commitment to it, and that is why our system works the way it does.

Mr Waters: The United States geographically is very close to the size of Canada. Do you bring everybody to Washington for these interviews?

Mr Grandmaître: At $78 an hour.

Dr Fisher: Most of the ones we are talking about would come to Congress. It is possible for committees in the Senate and the House to do what we call field hearings, go out to that state and region, but that would be for legislative matters or

others. I think the appointment process, nomination, is done in DC. That is the process we have. I am just trying to think of, say, somewhere of a local nature, say a US attorney who is going to operate out of California. Would he be brought in? I think he would. It is a position subject to advice and consent of the Senate, and it can often be an important position.

Mr Waters: Let's take the state of California, or any state. Is there a system in place where the state legislatures do something similar?

Dr Fisher: I think the separation of powers system in the United States operates at the state level with a lot of differences, but in terms of the separation between the executive and legislature powers it is the same process.

Mr Waters: They would have an appointments committee that would review appointments of a state nature?

Dr Fisher: There would. There would be some differences. For instance, we appoint federal judges subject to the advice and consent of the Senate, whereas a lot of states elect judges; no appointment is involved. So there would be some differences at the state level.

Mr McGuinty: Are there any restrictions in terms of the people who will be obtaining positions or employment, any restrictions in terms of who you may or may not call? I gather from Dan Waters's questions that we are dealing with vast numbers of people. Does the committee have the right to select any specific person and have that person appear before it?

Dr Fisher: You mean when a nomination hearing is held, is there any restriction on what a committee can do in calling witnesses?

Mr McGuinty: No. For instance, take your case. You said when you were in the military you were dealt with en bloc. Could you have been hauled before the committee individually?

Dr Fisher: If information had come that I had done something of a scandalous nature in the military—I do not think it would be at lieutenant level, but at the general level or something like that—yes, it could be a cause célèbre, and you could be brought in and it could be an embarrassment or you may be forced to resign. This happened.

Mr McGuinty: I am wondering if, implicit in your answer, there is some kind of presumption that has to be rebutted before we can ask a particular intended appointee to appear before that committee. You mentioned a scandal or something. Are you thinking from a political perspective or legally is there some hurdle to be overcome?

Dr Fisher: The ones we are talking about en bloc, the thousands and thousands that go through, the presumption is that there is no problem unless someone can raise a problem.

Mr McGuinty: I see. So there would be an obligation on a committee member, for instance, to show that there was a problem?

Dr Fisher: Right, or someone from the private sector does their homework and presents it to a member.

Mr McGuinty: What is the makeup of these committees in terms of how many people would sit on them?

Dr Fisher: You have 100 senators and about 20 standing committees, and there is multiple memberships, so I would think the average Senate committee would have about 15 or 20 members.

Mr McGuinty: In terms of the numbers representing the parties, how does that work?

Dr Fisher: In the Senate, the ratio in committee is roughly the same as it is on the full Senate, so whatever Republicans and Democrats have on the Senate as a whole would be reflected in committee. The House of Representatives is a little bit different.

Mr McGuinty: I see. I gather that effectively the committee does have a right to veto appointments.

Dr Fisher: They do not have a right to veto. They have a right not to act, which will kill a name.

Mr McGuinty: Is that what they generally resort to if they are unhappy with a particular intended appointment?

Dr Fisher: Yes. If you look at the statistics on how often the Senate rejects people, it does not look like many. But what you are bringing up is the way it is often done, where, even before a name is made public, the executive branch will tell a committee, "We're thinking of sending up this name," and the committee will say, "Don't do it, because if you do we have this information," and then they say: "Okay, we won't even release the name. We'll withdraw it. How about this one?" So a lot of our process is of a very informal nature and private.

Mr McGuinty: We do not possess a power of veto. Mr Grandmaître spoke of this earlier. Can you describe any advantage or disadvantages associated with the power of veto, given our system here?

Dr Fisher: In your system, and you can elaborate on it much more than I know, you really put the responsibility on the executive branch and the ministries for conducting government, which is not our system in the United States. On something like administration, how well a program is running, say, it is not unusual for not just the executive branch to be involved but certainly the committees of Congress to be involved and for the courts to be involved. Our accountability is dispersed a great deal, which is theoretically not supposed to be the case with you.

Mr McGuinty: Just touching on the theory, then, what is the theory behind your committees having the authority to effectively prevent an appointment?

Dr Fisher: Actually, at the constitutional convention, which took five months, for the first four months they had the power to nominate in the US Senate 100%, no role for the President. Then, for various reasons, at the end they decided to get the President involved in nominations. So that was a late addition. The theory was that the President would be a good person to send up the names because he would have his reputation at stake and he would only send up the best names, but he would not know everyone and maybe he would make mistakes so there ought to be a check on that, and so the Senate would be able to block unsavoury nominations.

Mr McGuinty: I am just going to ask you one or two more questions and then I am going to stop so that my fellow committee members can ask, but if time permits I will have more later.

Are there any restrictions in terms of the kinds of questions that can be asked of persons appearing before the committee, particularly the intended appointees?

Dr Fisher: With executive branch nominees, no restrictions other than fairly obvious ones about private matters that seem to have no relationship to public office. When you get to the judiciary, there are some restrictions. Obviously, you would not want to ask a judge how he would decide a particular case, that he would prejudge. There are some questions that would be out of bounds.

Mr McGuinty: I thought I read of an important case in the states. Maybe this never appeared, in fact, before the committee, but it was an intended judicial appointment and there was some question as to whether this individual had smoked marijuana in the past. Would that be a legitimate question had that person appeared before the committee?

Dr Fisher: Yes, you are probably referring to Douglas Ginsburg. After Judge Bork was defeated, President Reagan nominated Ginsburg, who had served one year on the federal appellate DC circuit. It was brought out within four or five days that as a law professor he had smoked marijuana and some evidence that never gelled as to whether he might have even been trading and circulating. By the ninth day his name was withdrawn. This was from an administration which had made war on drugs and where the first lady said, "Just say no." Had that name gone forward, had it not been withdrawn, that would have been an appropriate question, because this was not someone who did that at age 15 or 16; he did it as a law professor. It would have been appropriate. They knew it would have been an issue, and the pressure to withdraw the name did not come from liberals, who would have been the opponents; it came from conservatives who did not want to be embarrassed.

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Mr McGuinty: I wonder if you might comment on our inability here to call witnesses to appear before us who might comment or lend some insight into an intended appointee's—how do you see that? Any comments generally?

Dr Fisher: There is one thing I would like to understand a little better. As I understand it, you could have an intended appointment come up and the committee could vote unanimously against and the person would still serve. I wonder about the dynamics of that. Obviously, there is a cloud over that person, but maybe the unfavourable vote would be a warning that, "The reason we voted that way is because of what you've done. Make sure you don't do it in office." There might be some pluses and negatives on the vote. It makes you, without calling other witnesses, more dependent on the executive branch as to what information you receive, but that is true in a parliamentary system across the board, not just on appointments but legislation and budgets. So nothing new about that. It is so new for you, I suspect it will be something that will develop and you will find out whether you want to adjust that as you go along, whether it is serving the purpose you need.

Ms Haslam: I am not a student of the American political system, so I would like to ask some questions to clarify some of the things I wanted to know.

You said you appoint a great number of people on many small boards, large boards and in a tiered situation. Does everyone appear before a committee? You said some appointments are made automatically or by staff, so some people never ever get called before a committee.

Dr Fisher: Correct.

Ms Haslam: Okay. It just depends on the person and the committee.

Dr Fisher: I think it depends on the slot. If it is a policy-making position, where the person would have discretion in judgement, the committee would want to make sure that person understands the programs and the statutory objectives.

Ms Haslam: In that case, are there any applications for these jobs or are they all chosen and picked and called upon to serve? Are there applications for any of these positions?

Dr Fisher: Well, let me give you one thing specific and see if it helps. Unlike your committee, the Senate committees will have a questionnaire, a lot of the questionnaire having to do with financial background of the nominee, and that has to be filled out by the person before the person appears before the committee. You will see that in the committee rules I will give you.

Ms Haslam: Yes, they fill out a form for financial information, but how do they get to that position in the first place? Did they fill out an application form? Did they call and say, "I am interested in serving on this particular committee"? Was there an application process? What was the search process?

Dr Fisher: How did we recruit these people?

Ms Haslam: Yes. And can somebody actually apply for any of those positions—beekeeper or gatekeeper or whatever?

Dr Fisher: Normally, it is not a position where these jobs are posted somewhere and people apply.

Ms Haslam: But could they?

Dr Fisher: Not for these. We are talking about major positions. How does the recruitment work? Just focus on one area like federal judges. Although the name will come from the President, it is not unusual for the name actually to come from a US senator from that state. Say it is a district judge, a trial judge; it is not unusual for the senator to feel very strongly: "That's my state. He's going to be in my state, and I want this person."

Then he has got to get the support of the executive branch, "Yes, that person's qualified and we'll back him," or, "No, that's not the person we want, give us something else." Sometimes the initiative comes from outside the executive branch 100%, and we will see in American newspaper headlines, "Senator Warner Nominates Two Judges." We know that constitutionally he does not do it, but practically he does.

Ms Haslam: So in other words, you do not ever have two people vying for one job, where the committee has to choose between the two.

Dr Fisher: Never that. No, we would never have that situation. We have people vie for jobs. We have a lot of people who would like to be Secretary of State and Secretary of Defense, and that battle is all done before a name is announced for committee action.

Ms Haslam: So you review the person that is being nominated.

Dr Fisher: Just the one name comes forward.

Mr Bradley: I am interested in a couple of things, first of all, in the amount of staff that is available to you, particularly as it relates to conflict of interest. If one wanted, I suppose individual members of the Senate could use his or her own staff to do some investigation on people. If this committee had a person coming before it, I would have a hard time picking out a conflict unless I knew something about the person initially or unless intuition told me that person might just have a conflict in one area or another. How much of the committee staff time is spent on investigating the potential conflicts of interest of potential appointees?

Dr Fisher: A great deal. This has been a focus, particularly in the last 20 years, where for instance on some of our independent commissions, a commission on interstate commerce, it would become obvious after a while that the commissioners are all, say, of a pro-industry nature: that is where they have done their work, that has been their bias and it is not a body that can, in a balanced way, perform its duties. I will leave this with you. It is from the committee on labour and human resources rules. It says:

"Presidential nominees shall submit a statement of their background and financial interest, including the financial interest of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. That is to include information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, information relating to financial and other background of the nominee."

Mr Bradley: Is that information for the public record?

Dr Fisher: This would be public record, yes. They are very concerned about people in the executive branch having a conflict of interest that prevents them from carrying out statutory missions.

Mr Bradley: Does this in any way, in your view, limit the number of people who are prepared to become nominees? In our system, if I were to suggest that the person would—not that the committee can do that at this time nor is the government proposing this—but if I were to suggest to this committee that we should adopt a rule that said that a person coming before the committee must file a financial statement, I suspect this committee would not accept that.

I know your system is much more wide-open. In fact, your politicians must file statements which are much more extensive than the statements we must file as members of the Legislature or members of our cabinet. Does that tend to be a limiting factor on the quality of candidates and the quantity of candidates coming up for potential appointment?

Dr Fisher: I think it is a factor, although I would qualify. A lot of positions remain vacant for a while and the department says, "We need this," and, "Why can't you fill it?" and the White House will say, "We're trying to fill it but we run into people," as you suggest, who say: "I don't want to go through this. I don't want my finances exposed." But I do not think overall it has had too much of an effect. We do not have positions that go wanting. There are always good candidates to fill them.

On a trip to Bulgaria we had one federal judge and three state judges as part of the delegation, and the federal judge said that the information he had to submit was about four inches high. That is what the executive branch and the committees and the bar association—it is vetted by the bar associations as well. They have a very influential role in the appointment process. So a lot of information is required today and if anyone feels uncomfortable about it, of course that person is not a candidate.

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Mr Bradley: To turn to another aspect, has the experience that you have had been that the allowance or permitted appearance of commenters been a negative or a positive factor? For instance, I will pick one area where I am particularly interested, the director of the Environmental Protection Agency. Presumably, if he were to come before the Senate, if that were one to come before the Senate, in theory, you would likely want to have members of environment groups, the Sierra Club or someone, come forward and say, "Yes, in that case Sierra Club would probably be favourable." But Sierra Club and Greenpeace or whatever may comment and there may be people in industry who may want to make comment. Has that proved to be useful or has that been extensively misused to discredit an individual for political or other purposes?

Dr Fisher: I think it is generally useful and usually neutralizes itself because of the bipartisan nature of most committees—all committees actually. The people you would have testifying would be across the board and you would have enough on one side as on the other and the committees feel better because their resources are better than yours but they still, in terms of the time pressures, do not feel like they can always do the greatest job. They feel that it is better to have the record full even if some fringe groups may be called to testify. They have their place and it is part of the hearing record.

Mr Bradley: Again, I find that rather intriguing that you would allow that because I would think that could be a very useful tool in certain circumstances. Again, we are limited by time considerably and the massive job there is there potentially to review the various appointments, but I would think in some senior appointments, for instance, that it would be useful to have various groups make comment or at least a cross-section of those groups make comment to inform the committee of their views on that. The other part that I am interested in, did I hear you say that

you have in fact unlimited amount of time to consider the appointment?

Dr Fisher: There is certainly no deadline and it can go on for quite a while. If the President sends up a name for the US Supreme Court, you have nine people and you are down to eight, there is a time pressure. If the name of Bork comes up on 7 July and the first full committee hearing is 15 September, the executive branch complains about that, "What's the delay?" Well, there was a lot of work for Bork, very voluminous, but there was still pressure on the committee. The committee does not like the Supreme Court to be short a person, so it operates under a certain deadline as well.

Mr Bradley: I again find it intriguing that your Senate is able to review judicial appointments. This committee does not have the right to review judicial appointments, as I recall, and there are provincial appointments that can take place as well. We, as you know, elect no judges here. My reference to defeating them is that they are often defeated candidates. So we defeat judges and you elect them. It is a little different system. Well, that is starting to change a bit.

In camera, what about questions of a personal nature, questions which could be potentially embarrassing? Do your committees go in camera to ask those or are those questions completely forbidden?

Dr Fisher: No, generally the hearings are open and generally floor debates are open, but at the floor level and committee level there are procedures where you can close if you think the information is, say, national security, top secret and you have to go into executive session. You can do that and you can do that in committee as well. So the presumption is that it will be public unless there are stated reasons for private hearings.

Mr Bradley: In your observation of the system, recognizing that our parliamentary system is significantly different from your system, which has a separation of the executive and the legislative branches, in your observation of it, and I recognize it is going to depend on the issue, do the appointments generally receive support or lack of support along partisan lines or not?

Dr Fisher: Taking something specific like the US Supreme Court, 90% or 95% of them will be along partisan lines. Republican candidates pick Republicans and so forth, the Democrats the same.

Mr Bradley: I guess I will restate it, because I understand that is going to happen, that the party in power is going to nominate whomever it sees fit and it is very likely that most of the nominees are going to be those that are acceptable to the party in power, to say the least. My point is in the committee system itself.

Where we have a committee sitting here in our system, the government rises or falls, as you know, on how the members of the governing party vote. In your system that is not the case, since they are separated. In your experience, has the committee of the Senate itself approved along partisan lines or is it more individual philosophical lines that seem to rule when approving or not approving appointments of the President?

Dr Fisher: Well, say with President Bush in office and the Senate being Democratic, the Senate will recognize that the names coming up will be Republican people and they will look for those who are sympathetic with the programs that have been enacted and they do not want enemies of programs, so it is more philosophical and programmatic and not partisan.

I should mention that, probably different from you, say there are five people on a commission, then there will be statutes to say that no more than three shall be from one party and that will have to be observed. You will end up with three Democrats and two Republicans or vice versa. So there are some statutory requirements. It is not hard if you are a conservative Republican to find a Democrat who is very conservative, so there are ways to blunt that, but there are statutory limitations.

Mr Bradley: See, the observation would be that in our committee system, in this Legislature and the federal Parliament, the votes that take place would largely be on party lines as opposed to individuals voting within the committee. Unless this new Parliament is different than the last 100 years, that is likely to be the case. I take it from what you are saying that is not necessarily the case, in fact is often not the case in the US Congress.

Dr Fisher: Yes, I think it is fairly rare. It will come up but quite rarely.

The Chair: Doctor, you mentioned the committee and you said there are about 20 committees in the US Senate and 100 senators, and some of them are in leadership roles so not all of them, I assume, are available for committee responsibilities. Then you mentioned about 15 to 20 senators per committee, which means that roughly you are looking at about four to five committees which each senator has to serve on.

Dr Fisher: That is true.

The Chair: I am just curious about the workload. You talk about significant numbers subject to review. Do you have a ballpark figure in respect to how many appointees would be reviewed by the Senate in a year?

Dr Fisher: No, but when I get back, I will certainly collect that information, magnitudes and statistics, and mail that back up to you.

The Chair: We have been discussing the approach and responsibilities of this committee and the fact that there are 11 standing committees in the Legislature and we have about 100 members approximately as well available to serve on committees when you discount cabinet and the Speaker and a number of others. I think most of us, especially in the parliamentary system with minority parties, the opposition parties with the smaller numbers, find the workloads fairly heavy right now. I am trying to contrast it with the workload that individual senators must face when they are also looking at reams of legislation as well as significant numbers of appointees being reviewed on an annual basis. If you could provide us with that information, it would be quite helpful.

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Dr Fisher: The situation is made even worse by the fact that it is not the 20 committees, it is the fact that each committee has subcommittees and members have to serve on those. Four or five, I guess, would be manageable, but by the time they serve, each committee could have 10 or 12 subcommittees, so it multiplies.

Ms Haslam: I maybe misunderstood a comment and I want a clarification. When you talk about three Democrats and two Republicans on a committee, are you talking about appointments to committees, that they would be appointed on a partisan basis?

Dr Fisher: Yes. When I mentioned three from one party and two from another, that would be for an executive commission by statute, say the Interstate Commerce Commission.

Ms Haslam: And it is done on a partisan basis, where it is party politics that puts them on that committee, not their abilities?

Dr Fisher: Well, the independent commissions for us are unusual. They did not come in the United States until around the 1880s. Up until then, you basically had single-headed executive departments. Somewhere in the 1880s it got started and in the 20th century we got executive commissions, multimember, 5 people, 7 people, 9 people, 11 people. Since these were supposed to be long-term, non-partisan, not directly as agents of the President, you would have statutory requirements. If there are nine people on the commission, not more than five could be of one party.

That is what I was referring to, some effort to have partisan balance and neutrality on the administration of those programs, to give some continuity so that they would not be yanked back and forth with each election. There would be longer terms as well. There could be terms of 7, 9, 11 years for those commissions.

Ms Haslam: The other thing which brought me back, a lot of times you wanted someone on the committee that followed the policies of the party in power. You talked about a commitment to the policy, that the Senate wanted someone who would follow the policies of the Senate.

Dr Fisher: Not the policy of the Senate but the policy as established by statute. It often is the case where bills under one administration will be submitted to a President, enacted into law, and the next administration comes along and they do not like that. Well, the option is to repeal the statute or revise the program; otherwise that is the law of the land and it is supposed to be carried out. Instead though, through the appointment process, they will often try and pick people who are basically enemies of the program, and that is what the Senate and the House will try to avoid, to make sure that person is in sympathy with the objectives of the statute.

Mr McGuinty: Dr Fisher, what powers do these committees have to compel answers from witnesses who appear before them?

Dr Fisher: If there is not co-operation, first of all, they have a subpoena power. You can subpoena persons, you can subpoena documents, and if a person declines to do that, he can be brought into court and penalized. Then beyond the subpoena power is the contempt power. Most of these, by the way, are non-constitutional powers. These are powers that the Congress has acquired to protect its prerogatives.

The subpoena power functions at the committee level; the contempt power operates at the full House or the full Senate level, where you would take a vote and say that this particular executive official has conducted himself or herself in such a way that is in contempt of Congress. Under inherent powers, Congress could punish that person directly. They could take that person, after the vote, and put the person in a jail that still exists in the capital. They have not done that for a while. The process today is a statutory one where they would go into the courts and the federal courts could review that person. The person could be fined and jailed for being in contempt of Congress.

Those are the two principal punishments, subpoena power and contempt.

Mr McGuinty: Practically speaking, if a witness was to refuse to answer a question, what would happen?

Dr Fisher: It depends. There are certainly restrictions on committees. Most of the Bill of Rights would apply to committee activities. They cannot use committee hearings to embarrass someone for ideas he has or associations he has.

Mr McGuinty: I am premising my question on the assumption that the question had been ruled in order, it was legitimate.

Dr Fisher: If the question of a committee is pertinent and the person refuses, then he can be subject to the processes I described. The person can decline to testify under the fifth amendment; does not want to incriminate himself or herself and there can be a refusal to testify.

Mr McGuinty: I think you are still missing the point. Maybe I am not presenting it properly but, practically speaking, what happens? Does that mean that effectively this person is no longer going to get this appointment if he refuses to answer a question?

Dr Fisher: Certainly if you are a nominee and you are asked a question and you say, "I decline on the fifth amendment; that will incriminate me," that is the end of the day for you. But I am thinking of a more recent case. You probably know about it, the person who used to be head of the housing agency, Samuel Pierce. After he was out of office he was asked to testify. He testified for a while and then after a while he took the fifth amendment and the matter is now in the hands of what we call an independent counsel, who is investigating for possible prosecution. But to behave that way while your nomination is pending would be a death sentence.

Mr McGuinty: Dr Fisher, you have described the American system for reviewing executive appointments. Can you tell us now of some of the traditional concerns or complaints that have been made about that system so that we will be made aware of those too?

Dr Fisher: Traditional complaints about it? I guess from the executive side is that it takes too long and it embarrasses people too much and it makes the recruitment

process too difficult, but those objections have never had any bearing on how the Senate performs. It feels that those are the prerogatives and that is necessary, and sometimes it takes time.

Mr McGuinty: Is there any movement, traditional or otherwise, within the Senate to somehow increase its powers with respect to this review process?

Dr Fisher: I do not think so now. I think the Senate in the 1970s concluded it had done a poor job, it had been too much of a rubber stamp, and it beefed up its operations and its staffing and its forms required of nominees. So I do not think there is any debate today about strengthening it any more.

Mr Waters: On the question of what is an appropriate question, there has been some discussion as to what people should have to answer. Who decides what is an appropriate question and who does not? Is there a set of guidelines that you follow for that?

Dr Fisher: On Senate committees, on the positions we are talking about, the big ones, I think there would be a lot of negotiation ahead of time as to, "We will have these hearings and these are the kind of questions," and the person would know about it ahead of time, in fact would have to, because he or she is a new person and does not know it. So they would have to have some idea of the nature of the hearings and the questions, and often they would have three, four, five people with them to help on technical details. So they would know about the pertinency and the relevancy of the questions ahead of time.

Mr Waters: Then, a person sitting on the committee, just out of the blue, could not just fire any question he wanted and that would all of a sudden become an appropriate question. It would have to be decided by all parties before.

Dr Fisher: No. Each senator on the committee is a free agent. If you did it out of the blue and it was not appropriate, you would discredit yourself. Some of the questions, by the nature of it, are generally within bounds and appropriate.

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Mr Waters: In the US system, all of these appointments and these hearings are done by senators.

Dr Fisher: By the senators.

Mr Waters: They are not done by the members of the House.

Dr Fisher: The House of Representatives formally has no role in the nomination process.

Mr Waters: Okay. In some ways we are comparing apples and oranges, but it is nice to know your system. We are not a Senate committee here. We are more like a—well, we are provincial instead of federal.

Dr Fisher: Right.

Mr Waters: Legislature.

Dr Fisher: The power for us comes directly from the Constitution, which gives the Senate the advise and consent role on nominations. The House has no role, but over time the House informally can have some participation on nominations. It would not be unusual, for instance, for the Senate to have a hearing and invite someone from the House to testify either for or against the nominee. That can happen.

Mr Perruzza: Mr Fisher, I would just like to have some of your thoughts on the two systems of government, primarily the parliamentary system versus the, I guess you would call it, congressional system of the United States. What are some of the pitfalls that are inherent in both, and in your view, which of the two is superior in terms of delivering good, effective, efficient government?

Mr McGuinty: In two minutes.

Dr Fisher: Actually, there have been a lot of academics in the United States who say the separation-of-powers system is anachronistic. It might have made some sense in the 18th century; it does not make any sense in the 20th century. We need to put more power in the executive branch. The United States should adopt the parliamentary model. They quickly got the idea that "parliamentary" was an alien term, so they dropped that and instead began to put in words like "accountability," "responsibility." "Coherence" seems to be a word they like a lot.

I went to Holland in 1985 for three weeks, but my main mission there was to see how much accountability you get in that parliamentary system. Of course, it is a multiparty system in Holland and my impression was that you did not get accountability and responsibility and coherence in that parliamentary system.

So my feeling is on a parliamentary system, if you have two parties and not more than two parties, I guess you get accountability that you would not get in the United States Senate. Otherwise, if it is more than two, you need coalitions. You never know. In Holland they had a huge scandal where they tried to pin it on a minister and the minister said, "I'm responsible for that program, but when the scandal started it was in the previous government." Well, he had been in the previous government but he still would not take responsibility. So I think, as a generalization, a parliamentary system does not make any sense until you ask if it is two parties or more than two, and how many pure two-party systems do we have?

Mr Perruzza: Okay then, specifically ours, where we have three parties but one party gets to govern because it has a majority of the seats.

Dr Fisher: Where you would have one party able to govern? You are the experts on that, as to how much accountability you get as a result. The only other system I have seen, I guess, is New Zealand, which has a system where you can put all the responsibility on one party. I think even if you have one party that had a clear majority and problems came up and that party had newly-gained power and had not been in power two or three years ago, I think you could run into the problem I gave you on Holland where they could say, "Yes, the problem came to fruition under us, but it was under the opposition that it actually began." So you may still have problems on fixing accountability but you know your system and make judgements for yourself.

Mr Perruzza: So in essence what you are saying is that perhaps the American federal system holds its members, or its members would otherwise be, more accountable than members in a parliamentary system.

Dr Fisher: I think it is very hard to hold an individual member of Congress responsible, say, for budget deficits. Say, "I am against them but everyone else has been irresponsible." Very hard to hold individual presidents responsible. They say it is the fault of Congress or the court. My impression is that the value that supports our system does not have anything to do with accountability or responsibility but has more to do with participation. People like the system where if you get blocked out in one branch there is an opportunity to make headway somewhere else. No doors are closed. So that is the value that supports separation of powers, just opportunity for a lot of people in different levels to participate and have some say in government, even if it is not very accountable.

Mr Perruzza: Okay. You talked about enormous numbers of staff that are attached to both the committees and the members themselves. In your view, in that way is government more efficient, when the agencies that process information and make decisions are better staffed than those that have smaller staffing numbers?

Dr Fisher: Yes. I would say the US Congress has reached a point where too much staff hurts the institution, even though I am part of the staff. I would say it hurts it in the sense that the more staff you have, the more the temptation for members to delegate a lot of things to staff to iron out and the less face-to-face contact there is from one member of Congress to another. And when that communication is reduced, I think government suffers. I think members of Congress delegate too many policymaking decisions to staffs that are not able to concentrate as well as they ought to, not just to hammer out technical details but political tradeoffs. That takes time. The bigger the staff, I think, the harder it is for it to do that.

Mr Perruzza: Well, that actually was going to lead into my next question. How far removed do you think the individual members are from both the actual decision-making and their constituency and constituents, in your view?

Dr Fisher: Oh, I think most members, in order to stay elected, keep up good contacts with constituents and get back quite frequently and spend a lot of time on that, so I think they do a good job there. But the task, if you ever look at what they have to do in committee and subcommittee and what they have to do on the floor and just read a couple of issues of the Congressional Record Floor Debates for a few days, it is overwhelming for anyone to do it and to do it well. So constituency, I think, with communications and travel and video and everything else, newsletters, a lot is done in that area.

I think Congress increased its staff beginning in the early 1970s. I think it had to do so, which is unfortunate because it was not able to get from the executive branch accurate information. I came to CRS in 1970 and would have friends in the executive branch who would say, "Do you want the official line or do you want the facts?" That was their way of alerting me how much deception was going on. So I think it hurts government where after a while the legislative branch cannot trust in the facts and figures from the agencies and we start to create duplicate agencies, which is what we have done. The reason Congress created a congressional budget office is it felt it could not trust the office of management and budget. So you end up with duplicate numbers, duplicate budgets and a lot of confusion.

Mr Perruzza: Yes, which actually leads me into my next question, and it has to do in members, in the turnover rates and ratios. And this does not have to do with the president but it relates to Congress and, to some degree, to the Senate in the one-third turnover every two-year and six-year cycle. How many members actually get voted out and what is the average lifespan of a House member and a Senate member? Do you know?

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Dr Fisher: I think we started on the idea of citizen legislator, someone who would come in for a few years and then go out to private life. Somewhere in the 20th century we developed the notion of a career legislator, and he would be in for 20, 30 years or more. There is criticism that there is not enough turnover, that the system favours incumbents. I do not think that is true. I think most incumbents do quite a good job and that is why they stay in and that is why they are re-elected.

Mr Jackson: According to what we read, it has a lot to do with their social life.

The Chair: Mr Perruzza, have you finished?

Mr Perruzza: No. My last question, and just to get a little bit better understanding, I guess, of some of the pitfalls of your system as well, given that our system of Parliament works considerably different from yours and taking into account some of the comments or some of the information that has been generated by some of the members here today about veto powers at the committee and so on and the decision-making authority of the Senate committees, if our committee were given, in your opinion, similar powers, how would that impact on the idea of Parliament being supreme and the party or the Prime Minister or Premier in power really being the individual who is held accountable for all government and the delivery of government in a province? How would the authority here impact at that level there?

Dr Fisher: Well, that is why I think even what you have now, as modest as it is, is of interest, because theoretically I would think you would argue that in your system the executive branch should have total control over appointments in order to make the ministries accountable, and yet to some extent it seems to be partly shared through this vetting process. I get a head shaking there, so we get some elaboration on that. But that would strike me—theoretically, if that is where you want your accountability, in the ministry—that they should have full control over appointment and removal, and that is not the system that we have in the United States.

If that is your theory, you know, why and how would the legislative committees get involved even to the extent that you are? What is the reason for that?

Mr Perruzza: So essentially what you are saying is that given the system that we have and the way the, let's call them, accountability levels work, what we have here today is relatively good in that in the parliamentary system, some of the members who are otherwise in opposition are given an opportunity to review directly government appointments or government nominees.

Dr Fisher: That there is an opportunity to express opposition, even though the control remains with the executive, right? That is the way the system works.

Mr Perruzza: Essentially the control remains with the executive but there is the opportunity there, yes.

Dr Fisher: Opportunity to embarrass or to expose.

Mr Perruzza: Yes.

Dr Fisher: You know, we talk about the theory of your system and the theory of my system. At least in the United States we do have theories and we do have grand schemes, but we have no problem in muddying it up with overlapping. We do not really have a separation of powers, we have overlapping of powers, and we never intended that powers be strictly separated, which confuses the US Supreme Court. One year they will say, "The powers have to be totally separate," and two years later they say, "Don't worry about overlapping."

We are not theoreticians. We run into situations where it does not seem to work very well and we try something new, and someone says that does not fit with theory, and it really does not matter. The independent council that was upheld by the Supreme Court in 1988 was a very odd system, where Congress did not trust the executive branch to investigate itself at the top level, so the appointment process of the independent council was given to federal judges. A very strange system, but it was meant to deal with a situation that no one else had a better way of doing. We violate the theory all the time.

Mr McLean: How many appointments would be made in the course of a year?

Dr Fisher: I am going to give you some statistics when I get back. I think we are talking in the thousands, in terms of nominees considered by committees; then, of course, tens of thousands of routine appointments in the military beyond that. I will give the committee those numbers.

Mr McLean: What would be the average length of an appointment, or are they just as long as until the next election?

Dr Fisher: You would go from lifetime appointments of the federal judges to fixed-term appointments—I think the Federal Reserve Board is a fixed term of about nine years; the Comptroller General is 15 years—down to situations where there is no term at all, like someone who comes in as Secretary of Defense and wants to leave within nine months, 14 months, that is the end of it, no term. So from no term up to fixed terms up to life terms.

Mr McLean: So they vary.

Mr Bradley: Would your federal government, if it were asked by the Senate committee, be able to provide a list of all the potential appointments it would be making? Would it be able to provide that list, let's say, if the committee were interested in all the appointments the federal government was to make, and then a separate list of all the appointments that the federal government was making that were not under the control of the Senate committee? Would that be a list that would be provided to a committee upon request of that committee?

Dr Fisher: Yes. There has been something in Washington DC called the plum book. These are positions people would like to have. It is a fairly long document. The individual offices are identified that will be required to be filled and which ones require Senate action. It is all public. There is no confusion about what is available.

Mr Bradley: It is wonderful to hear it can be done so easily.

Ms Haslam: How long did it take to do that?

Dr Fisher: I do not know how long the plum book has been around, but I suppose before that was there, there was public information on positions. Nothing has ever been secret about it.

Ms Haslam: Are those just positions that go through committee? I am sorry; supplementary.

Mr Bradley: I am quite happy to let Ms Haslam present this point of view.

Ms Haslam: No, no. It is not a point of view. I have another question. If you will ask it, that would be—

Mr Bradley: Our guest should be aware that such a request has been made by this committee. You may not be aware that such a request has been made by this committee and denied by the majority of the committee, which is the government majority in the committee, in the form it was asked. The only reason I asked was that I thought perhaps you might have some special miracle system in the United States to produce this, some technical advantage we do not have to produce it here in Canada. The reasons would be different. We have had a difficult time getting such a list, and I know your system in the US is one where there is openness.

Dr Fisher: Since you bring it up, let me just make a specific point as to how the systems differ. When William Rehnquist was up to be Chief Justice—he had been associate justice for years; he was up to be Chief Justice—the Senate committee on judiciary wanted some documents he had written when he was in the Justice department, when he was in the Office of Legal Counsel. These were memos of legal analysis, which were considered internal documents, part of the policy-making process, and were considered inappropriate to give to Congress, at which point—which is different from your system—the Senate judiciary committee said, "Well, then, we're not going to move on this." So the executive branch said, "Well, maybe we'll make them available to you." That kind of leverage is available in the United States, and it is not available in parliamentary systems.

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Mr Bradley: Nice leverage to have when one sits in opposition, no doubt.

I would like to pursue very briefly something further on the conflict of interest. When your committees are dealing with conflict of interest—we recognize it is an individual interpretation of what conflict of interest means, a definition one can bring about—there are two conflicts of interest.

There is one which is probably a pecuniary conflict of interest or a personal conflict of interest, where, if you were appearing before a committee as an appointee, one would say that by having this position you would be able to gain in your personal finances from it because of your knowledge, and there may not be provisions there that you divest yourself. Of course, in our system you would not be required to tell what your financial holdings were if you were on an agency, board or commission, to my knowledge, at least. Members of the Legislature must, to a certain extent.

Then there is the one where the conflict of interest would be that you have always had a bias in favour of corporations or in favour of one specific group or organization. That might be seen as another kind of conflict of interest, a philosophical conflict of interest, if there is such a thing.

What conflicts of interest does the Senate committee dwell on?

Dr Fisher: Mostly the former, the financial conflicts of interest, where, in your office, you are in a position to make decisions as an agency head that will benefit your portfolio, so you would have to divest yourself. Secretary of State Baker had to do that, not as a result of congressional pressure but because White House counsel Boyden Gray had made some decisions as to what Baker would have to do. So the pressure comes from within the executive branch on screening what your holdings are, how they relate to your office.

Then we also have—I do not know if you have it—the revolving door problem, where someone comes into government and as a result of expertise, say, in the Defense department, will go out and quickly get a job in the defense industry. There have been efforts to slow down the door a little bit, that you would not be able to do that for a year or some interim period. It is not a very successful operation. We do not want to discourage people from taking government so that they cannot go back to private enterprise. We have not figured out a solution for that.

Mr Bradley: I must tell you that still exists here. There are certain requirements, but they do not really limit people from profiting from their expertise or, in a much more sinister fashion, I suppose, profiting from their connections more than their expertise. Expertise most objective people would probably consider to be legitimate; to profit by expertise, in terms of that experience. The real concern comes when it is profiting by connections, the ability to walk in the door and talk to the right people as opposed to standing in the same line that everyone else must stand in.

Dr Fisher: On connections, we have the rule now that if you have been in government you have to wait for a year or something like that before you can lobby government again. But it is okay to ask for information from government, so how to keep those two separate spawns confusion.

Ms Haslam: In our library, we have three large binders that cover all agencies, boards and commissions and the people on them and their appointment times. Would you make available a list of all of those people who are appointed who were not coming before a committee?

Mr Bradley: If requested by the committee.

Ms Haslam: If requested by the committee. Within your bureaucracy, or jobs, not appointments.

Dr Fisher: Those are made available and they are scrutinized a good deal. The Senate feels that if it acts on nominees it has some chance through communication to have an influence. They are always worried about too many positions in the executive branch going to people who escape the confirmation route, and they recognize that the President and secretaries of departments need some people like that, purely political. But those names are available. It gets a little confusing.

Ms Haslam: How long would it take to put that together?

Dr Fisher: I think it is always available.

Ms Haslam: As an ongoing—

Dr Fisher: Yes, it has to be ongoing because these people move around a great deal. I think the printouts in various departments of who is on board and who is confirmed and who is not is always available.

Mr Bradley: It is an interesting system, particularly when one can watch on at least one network the proceedings of Senate committees from time to time. The last time I was in Washington the breakthrough had been that the Senate was on radio. I take it that now you have full televising of the Senate and the House, since I saw votes taking place on CNN in the House.

Dr Fisher: CNN is enormously successful. People are stunned. Of course, I watch committee hearings and floor debates. I do not think they are always that interesting, but we have millions and millions of Americans who will sit there from morning until night watching committee hearings and floor debates. This attracted a lot of citizens' support and interest in watching their government.

Mr Bradley: It is interesting for all of us that our legislative bodies have for so many years been able to—I will not say hide behind closed doors, but have been behind closed doors, where the public has access through the news media or access through a personal visit to a state Legislature or a state Senate or the national Congress, either branch of national Congress, yet has not had that easy access until rather recently through the medium of television.

Your observation is one that I would say could be sustained in this province. Legislators are sometimes—although I suppose we should not be—shocked by the fact that people will tell us how long they will sit and watch legislative committees or the proceedings of the House on a daily basis.

I recall one day going in. I had spilled some ink on a jacket like this, and I had a red sweater underneath. I took it off and I appeared without a coat on in the House, and a gentleman from Scarborough, which is part of Metropolitan Toronto, was quick to phone my office to point out my lack of decorum; just an indication that not only do they watch the substance but watch, let's say, the less than substance, the images that are presented in the House.

It is an observation. I think it is good for the system. I find the American system interesting as well, to be able to access it through CNN in this particular case, which has taken upon itself the duty, if it sees it as that—or it must have a market to have taken it upon itself—to televise on an ongoing basis what is going on.

I am diverging a bit, but the Chairman is a very tolerant man. I have heard that people will be critical of networks such as CNN for perhaps not having the experts to analyse and, in some cases, overanalyse what is going on, and will simply show you what is going on. There is probably a place for both in your system and ours. It allows the public to see everything that is happening instead of simply what a news person has said has happened and it can be done without interpretation.

I admire the openness of the American system. We in Canada often look upon our own system, as all countries do, as probably being superior. When one looks at some aspects of the American system, particularly those related to freedom of information and disclosure, one can see that your system is somewhat ahead of many other democracies in terms of disclosure of information and freedom of information. In the long run, that probably works best for—

Dr Fisher: Is that a question of theory? When we had the Iran-Contra investigation, I was part of the committee. I think it is true to say that no other country would have ever provided the public as much information about what had been done in Honduras, Nicaragua and so forth. Some people were critical of that as too much information.

But the theory there, I think, was that even if it would affect prosecution—which it has done, has complicated it—this is government of the people and they have a right to know what happened even if there is some cost and embarrassment. I do not know about here, but in some parliamentary systems my impression is that the theory is that the sovereign power is not the people but it is the government, and if the government wants to tell the people they have no right to information, it may do so. Is that the case? Do you see a difference of theory? I think in the United States we feel that the people have a right to know, and the Freedom of Information Act is a reflection. We do not have an official secrets act, which is the case in some parliamentary governments. Do you see any basic point of view in terms of who is sovereign, the people in one case and the executive branch in another?

Mr Bradley: There is probably an evolution taking place. I can only speak for this country. My own personal observation would be that there is an evolution taking place toward freedom of information that perhaps was not there in years gone by. We have invoked certain acts in this country that Americans would not tolerate. I think of the War Measures Act, which was invoked in 1970 in this country—it would be very difficult to invoke in the United States—which severely restricted liberties of certain Canadians at that time. I would have guessed at that time that it would never be allowed in the United States to be invoked. In fact, it is semimartial law in some ways; it certainly did take away some rights. It was very much supported in Canada at the time. Upon reflection, some have not been so supportive, but Canadians tended to be supportive of that at the time. I would suspect that the Americans and the system you developed would not be so supportive of the—

Dr Fisher: But we try. Remember the Pentagon Papers. The executive branch tried to withhold publication of that and it became a Supreme Court case and it lost it. They try to elevate things to the national security level. Sometimes they succeed. Mostly, they do not. In fact, the person who was Solicitor General for the Pentagon Papers case, who warned the Supreme Court, "If this information is ever made public, there'll be lives lost," and so forth, two years ago wrote an article in the Washington Post saying there was no threat at all, that the danger was embarrassing the executive branch.

Mr Bradley: My suspicion is that within this committee, the committees of the Legislature—the Chairman has been a member for a number of years—we will see an evolution towards more freedom of information and sharing. There was great resistance to allowing cameras into the Legislature for a number of years, and finally we have them. We have everything being televised, virtually, at the present time; some committees, upon choice, and the House. My personal view would be that it is positive, and I think there is an evolution towards saying that the people are sovereign, but that is an evolution rather than a revolution taking place now.

Dr Fisher: We are moving now towards cameras in the US Supreme Court, which a lot of the justices have resisted. But I think it is going to come and it is going to be tried and experimented with. At the state level some judicial proceedings are televised, and I think it will come in the federal system.

The Chair: Thank you very much, Dr Fisher. As I said at the outset, we very much appreciate you travelling from Washington and being with us. Your contribution today will be helpful to us, when, I think some time early in the session in the House, we are going to be attempting to grapple with the issue of recommending to the Legislature a permanent standing order for this committee. Your contribution will be helpful in coming to grips with that, and the materials you can provide us with as well. Once again, on behalf of all members of the committee, thank you.

Dr Fisher: I will leave the documents I brought with me today, and when I get home I will collect a lot of statistics and other documents and mail them up to you. It has been a pleasure for me. Thank you very much.

The Chair: Great. Thank you.

Before members of the committee leave, I just want to remind you that our schedule indicates Monday's sitting starting at 2 o'clock in the afternoon, when we will be hearing from the Ontario Restaurant Association. We do have some holes in our agenda, which hopefully are going to be able to close shortly. I am asking the members of the subcommittee to stay briefly after the adjournment so we can firm up the schedule; if there are any significant changes, your offices will be contacted. We also have to review the order-in-council appointments for the Fair Tax Commission so we can recommend review of appointees provided and hopefully set some dates for those reviews to take place.

The committee adjourned at 1544.

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Le lundi 11 février 1991

Standing committee on government agencies

Agency review:
Liquor Licence Board
of Ontario

Comité permanent des organismes gouvernementaux

Examen des organismes
gouvernementaux :
Commission des permis de vente
d'alcool de l'Ontario

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Monday 11 February 1991

The committee met at 1449 in room 151.

AGENCY REVIEW

Resuming consideration of the operation of certain agencies, boards and commissions.

LIQUOR LICENCE BOARD OF ONTARIO

The Vice-Chair: I call the committee to order. It is the standing committee on government agencies dealing with agencies, boards and commissions, a further review with regard to the Liquor Licence Board of Ontario. Today we have with us Ms Cimicata and Jeff Dockeray. If you would like to take a seat at the table in front, I am sure you probably have a short presentation. We have allowed three quarters of an hour in total, so use whatever portion you like for your presentation and we will use the balance of the time perhaps for some questions. You may proceed.

Mr Stockwell: Can I ask a point of order? It is on the information received about the Fair Tax Commission for tomorrow. Am I correct that we received this information from the—

The Vice-Chair: You got that from the clerk.

Mr Stockwell: The clerk of the committee?

The Vice-Chair: Yes.

Mr Stockwell: Can I ask whose is this? Who released this?

The Vice-Chair: It was released by the clerk's office. That was from last week's deliberations in the committee, and it is going to be dealing with the appointments to the Fair Tax Commission.

Mr Stockwell: Who wrote this? That is really what it comes down to.

The Vice-Chair: Maybe the clerk can answer.

Clerk of the Committee: I do not know who wrote it. It was supplied to me through the public appointments secretariat, who gathered the material that is required under paragraph 10 of the standing order requiring basic material to be presented to the committee once intended appointees are selected for review.

Mr Stockwell: Okay. I am sorry to take up the time of the people.

The Vice-Chair: You are not. We will allow them their full time.

Mr Stockwell: Okay. I would just like to get a clarification. It is terribly slanted and biased, and so I am just wondering, is this a government document? I mean, is this what the government has told somebody to write and send out, or is this a document done by our research or clerks' division?

Clerk of the Committee: It is certainly provided to the committee through the government, yes. It is not a committee document, and if you wish, I will try to find out who provided it.

Mr Stockwell: Okay. The other question I would like answered is, there are a lot of assumptions in here that were made—I do not know by whom, I suppose by the party in power—and my difficulty is there seems to be a lot of debate over what in fact this committee does when it in fact interviews these people who are recommended by the government. I will just make one quick point for the clerk and the research people so that they can examine it.

Under "Specific Issues to be Examined by the Commission," it said, "(a) What changes to, or restructuring of, existing tax-delivered assistance would increase the fairness of the overall tax burden on low-income individuals and families?" Am I assuming then, considering this is a document by the government, that if someone comes in and does not believe that in fact to be true, he cannot sit on the Fair Tax Commission? That is the question I want to put out. Does everyone who sits on the Fair Tax Commission have to buy into this doctrine here? And if they do not, how does that—

The Vice-Chair: Okay, I think what we will do is have the clerk do some research. He will find out where the document came from and come back with some answers to the committee so that we will know where we are going. Perhaps we can deal with that after we have dealt with the two delegations.

Mr Stockwell: That is fine. I would just like to get to the bottom of it, and if it is after the deputants that are here today, that is fine.

The Vice-Chair: Thank you. You may proceed now.

BACCHUS CANADA

Ms Cimicata: Good afternoon, I am the executive director of what is currently the only alcohol education program for post-secondary students in Canada. Our existence began in Ontario, started at Ryerson Polytechnical Institute after a well-known death took place in this province in 1984 involving a high school student at an orientation event at Ryerson. Shortly thereafter we were also exposed to the liquor licence board when we were lobbying against raising the drinking age to 21, or at least the organization, Bacchus Canada, did.

Since that time we have been working nationally from coast to coast. Within Ontario, there currently is one major provincial organization, known as Alcohol on Campus, which has been dealing with a number of issues revolving around the service of alcohol on campuses in Ontario, and of course the educational message that is being delivered to post-secondary students. We wanted to take this time to address the committee to talk about what would be, I guess, our exposure to the liquor licence board and some of the dealings we would have had with them and to possibly

make two recommendations with regard to some of the things that we see coming up.

I should also start by saying that because I work with so many of the bar managers who are in the business of selling alcohol on campus, I wanted to ensure that you would hear from someone who does, on a day-to-day basis, deal with students and drinking on campus and that is why Jeff is here. Jeff is the events programmer and bar manager from Lakehead University. He also represents the bar managers in Ontario through an organization entitled the Association of Campus Bar Management, so he can give you more of the meat and potatoes of selling alcohol on campus.

I wanted to bring up two points. I think the feeling that you would find that goes quickly right across the province, and we wanted to ensure that we were not coming here today as whiners, but I think our major problem has been and continues to be that we constantly get different opinions from different inspectors in different areas of the province. And again, I will get Jeff to address some of that. That has been our major problem.

Also, with server intervention programs becoming mandatory in this province, we are hoping that the server intervention programs that are developed do not necessarily only come from the Addiction Research Foundation in Ontario. Again, we can talk about that. I would like for you to hear from Jeff, who does deal with the liquor licence board far more than I do.

Mr Dockeray: I presently am the acting steering director of ACBM, which is the Association of Campus Bar Management. It is about five years old. It is not as in-depth as Bacchus or Alcohol on Campus in Ontario. It is more, as Carmi said, meat and potatoes. It is on the bottom level.

The pub managers, liquor service managers and food managers from around Ontario primarily gather once a year to talk shop. At no time ever is the LLBO on the hot seat. What we try and do, though, is to criticize as much as possible the Liquor Licence Act and its effect on us and how to make our job better.

Server intervention program training is one aspect of a bar manager's job which is essential. We would like the apparatus to submit our own programs instead of SIP, from addiction research, monopolizing, I would say, the most important element of alcohol policy on campus, which is the training part of it, the other parts being education and awareness programs.

Broad licensing is another topic which has been brought to my attention which most campus pub managers and liquor services managers have a problem with. The licensing in Ontario right now is very general when it comes to campuses. It is a one-blanket licence which used to be called a canteen or dining lounge licence and now covers an entire campus. This is not unanimous, but a lot of pub managers and administrators would like the autonomy of licensing each individual facility. Again, that is not a unanimous or a majority opinion, by any means.

We would like to see more official changes of legislation to the Liquor Licence Act; that being, we need a reference guide at all times. We see updates every two or three months, a lot of those updates being very general language to a pub manager, a lot of "will usually include but not always" type of phrases and, to a lot of pub managers, leaves us hanging in the balance as to what we can do and what we cannot do in terms of inducements, in terms of serving alcohol or providing alcohol in any way. We need a reference guide at all times. We need it for students and we need it for our administrators who sign our licences.

We are very concerned right now about our general responsibility to the general public as providers of alcohol and occupiers of facilities. We know presently that we do get together once a year and we do basically ask ourselves, "What kind of business are we in?" It is a no-win situation. There is no way we can win serving alcohol. We base our job on the basic premise that alcohol was brought on campus to manage on campus and we tend to live from that. We would rather have our students going to our campus pub where we can manage it effectively and keep an eye on them rather than their having to drive down to a Keg or a Casey's or any generic roadhouse and coming back in a car.

Another aspect of the LLBO which was brought up to me in the last couple of days was the language of the liquor licence board, as I just mentioned. The which-fors and why-nots are not good for pub managers to understand. We need a common language and I think there should be some time spent developing a common language that we can understand.

I think the most important factor the ACBM would like the LLBO to recognize is that we are doing something to cover our rear ends at all times. As Carmi said, Bacchus, AOC and ACBM are three essential components of alcohol on campus in Ontario. We are there for a purpose and we are there to address the growing concerns of alcohol consumption and the problem drinkers on campus and how people have to balance the books and the bottles.

These groups are not together as crying sessions. They are together to accomplish something, and I think I can speak for Carmi, for the most part, that we do accomplish something different every year.

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Alcohol is a serious part of campus life, there is no question about it. We are there to minimize its effects. We do 10 times what a regular licensee or any local tavern you see in any of your cities does. As far as I am concerned, we do 10 times more than they do in training, awareness projects and in support. We have a group of peers in one place and no other facility, no other community within a city or a town has. We have a group of peers that is almost a small city. Some of our universities obviously get up into the 20,000 range and that is a small city.

We as ACBM, the bar managers, want to be taken seriously in what we are trying to do here. We want a hotline. We wanted to deal with one person at the Liquor Licence Board of Ontario from whom we can get answers. Basically the sense of negativity we get a lot towards the LLBO sometimes is because we can compare to the GST hotline. New legislation can come out in one week. We can get three different answers in one week to one question, and it becomes very frustrating because we have pub managers, food managers and liquor servicing managers standing

back serving a general campus and asking, "Should I do this or should I not do this?" And we do not do it for fear of getting our hands slapped. We can talk to a provincial inspector versus our local inspector and get two or three different answers, and that has been a chronic problem for the last two years.

We would like the LLBO to be involved at all times with our associated groups. I think it is imperative. We can be steered the right way by one person through the LLBO. I think that is imperative. We want uniform opinions, essentially, and I think we wanted to start with our conference this year in May with—I am sorry, to have the provincial chair or vice-chair at the conference to see what we are all about.

I think we have our wits about us about certain things, but as far as we are concerned, AOC, ACBM and Bacchus are starting to amalgamate their efforts because we all have a common goal, and that is to see alcohol served properly on campus.

I think the LLBO can be a great steering factor in our organizations and I would like to see a close-knit relationship in the upcoming years, because as liability and tort law become more and more of an issue every year and the word "prohibition" comes up on some campuses, we are seeing more and more problems and it is essential that the LLBO does get involved with our groups.

The Vice-Chair: Thank you. Anything further?

Ms Cimicata: Yes. I imagine there are many organizations that come forward and everybody seems to always want special recognition. I think that the campus market, however, does have to be recognized as a very different kind of organization that does serve alcohol in this province.

I think Jeff brought up a lot of points, that we are doing a great deal. I think again part of the resentment that is stemming towards the LLBO right now on campus, while no bar manager in particular would come forward, is that the campus establishments are getting inspected quite frequently, far more frequently than the establishments that are popping up just on the outskirts of the campus. I can give you a direct example.

For example, the University of Guelph, which had a well-publicized incident several years ago, went through a coroner's inquest and an inspection and it almost lost its liquor licence. They have been inspected numerous times in the past year, yet three very, very fantastic bars opened up on the outskirts of town and have been violating liquor licence acts for the entire year. The sales at the University of Guelph have dropped $720,000, but you can just imagine where that money went if the bars off campus—one in particular, the Animal House, is doing very well—are doing things like advertising on campus in a way that we would consider would be completely inappropriate for a campus bar to advertise. The campus bars are reluctant to continually call in and cry about the establishments out of the campus; however, I think it has to be looked at.

Mr Bradley: If this is known, why would not someone, some way or other, report them? I was about to say it is a simple procedure. It is not a simple procedure. I understand that. But you know it exists. Then why does not someone take it upon himself to report it? Maybe they have and nothing has been done about it.

Ms Cimicata: I think part of the problem is that anybody who reports the off-campus establishment ultimately has to deal with the inspector on their campus, which is why we would prefer the hotline approach, where we could call into one central number in the Toronto office. I have often said, "Well, why don't you call Andromache up and ask her to come on a pub-crawl and see some of the establishments off campus?" but it has not been done. I think some of the board members should go on some of these tours, because I think the on-campus establishments, for a number of reasons, are doing 10 times the amount of work that is being done off campus. Because they are doing all this work, the server intervention programs, awareness programs and everything else, they lose out when the bar in town gets to do a special beer promotion that they are no longer in the position to do.

Mr Dockeray: Legally, or within campus policies.

Mr Grandmaître: Jeff, you are part of this bar management association. Have you ever requested a meeting with the LLBO to discuss your problems?

Mr Dockeray: A letter is actually on its way this week. I am hosting this year's conference in Thunder Bay, and we are requesting the chair of the LLBO to come up and see the meat and potatoes of our organization and, at that time, address the problems that perhaps she would be able to answer. Last year, we had a provincial inspector at our conference and the year before we had an inspector; I am not sure if it was provincial. We got absolutely nothing accomplished.

We do not want everybody to get the idea that someone from the liquor licence board is going to come and be on the hot seat for two hours. We just want our questions answered thoroughly.

As I said, the liquor licence board updates provide us with language that is so hard for us to understand, usually but not always. There are a lot of those. Well, where does the "usually but not always" come into play? It is very difficult. This year, consulting with Carmi and other associations, we felt it worth it that we finally get the "top dog" to the conference. Perhaps we cannot go any further than that. Maybe that would help.

It is not a full-time group. We are in no position to lobby, by any means, but we do have our concerns, and we get together once a year after the school year is done, mostly to reflect on the problems we had run into and the problems we are going to be running into. I thought this might be an appropriate year to have Andromache up.

Mr Grandmaître: What kind of business are you doing at Lakehead? What is your total take?

Mr Dockeray: My pub is actually about 20% of my job. I am an events programmer also. I take care of all the special events: speakers, theatre, music, everything, in the university community. The pub has held its own. The school is growing. The school grew to about 4,200 full-time this year. We do not do a terrible amount of business. In food and beverage alone at the pub we do about $500,000 business a year. There is liquor services, which is

run through the administration, which signs the licence. They run all other licensed rooms on campus. They do not do much at all; you would be lucky to see maybe $50,000 or $60,000 gross come out of that a year.

Where you get into the larger campuses, a campus pub anywhere in the neighbourhood of a capacity of 400 to 500 could probably easily gross right now, with the prices the way they have gone and the taxes, probably $1 million to $1.5 million a year, without blinking. That is even including the declining sales from people going off campus.

Mr Grandmaître: You mentioned the licence covers the whole campus. Can you explain this to me? That licence is not specific to this room where I need sinks and washrooms and so on and so forth. In other words, you can operate a pub or a bar anywhere on your campus or campuses.

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Ms Cimicata: If I can answer that, on the one hand, that is a good thing because that keeps the entire campus on its toes. However, the problem is that, for example, the student association runs its own bar, the grad association runs its own bar, the university faculty association may have its own bar, but they are all under one licence, which means that if the student association bar screws up it would affect the licence for the entire campus. That makes it really difficult for the bars who are more responsible, better organized, to deal with the other bars on campus which might not be.

Mr Grandmaître: Do you think this is fair? If I own a bar, if I am a private operator and I have a hall upstairs where, let's say, you might want to get married, I have to apply for a special permit, just to transfer that permit upstairs. It is a licensed place, not 24 hours a day. Do you think this is fair, that you can transfer your licence anywhere on campus and the private sector cannot?

Ms Cimicata: I do not know so much if it is an issue of fairness, because the rooms were licensed a long time ago. For example, U of T has well over 100 licensed rooms per se that it can do events in. That means that if they allow that room to go out to someone who is getting married, if there is an incident at that event the entire licence would be affected. The students on that campus have their own establishment which is called the Hangar. They would love to be separately licensed. They would like to hold their own licence.

Mr Grandmaître: What is the cost of your licence, the annual fees?

Mr Dockeray: I am not sure, because I do not sign the licence and I do not pay for it. The vice-president of administration for the university signs it, being the top administrator, and it is forwarded down through the levels of the administration to a general services person and then I am given my licence. I represent the licence of administration but I also work for a student union which financially runs the establishment.

Mr Waters: Last week we heard from some people about lifestyle advertising. I was wondering if you had any comments—because it is basically directed at your age group—about that type of advertising.

Ms Cimicata: Well, big surprise. Our organization, Bacchus Canada, recently took a stand against the ban on alcohol advertising, so that puts us in a very unique position as a youth organization. We do not support the bandwagon that most people are joining right now. The Bacchus organization has been lobbying the federal government for four years to do educational programs on campus. To date, we have not seen any programs. All of the programs currently being organized for post-secondary students are being sponsored by the alcohol industry. For Bacchus Canada, 90% of our funding comes from the alcohol industry. All of our materials, all of our travel, everything is being sponsored by the industry.

Mr Waters: I guess the ads I am talking about are mainly the TV beer commercials. Those are basically the ones they were bringing up last week. I was just wondering about your perspective on those particular ads. Some of the on-campus things maybe they sponsored, and that is one thing, but what I am looking at is these overall ads.

Ms Cimicata: My target market is well known for partying, and if even some of the parties came close to the standards in the alcohol commercials we would be very lucky. You do not see century clubs, 100 drinks in 100 minutes, portrayed in a beer commercial. You do not see boat races in a beer commercial. Our students do not wait till the end of the day, as in the beer commercial. The beer commercial portrayals are a whole lot better than what our students are generally doing. They are very tame in comparison to what we would have to deal with on a regular basis.

Mr Waters: Basically, what you are saying is that the beer commercials really have no effect. That is a far more gentle lifestyle than what actually exists.

Ms Cimicata: Oh, yes.

Mr Waters: What about labelling on bottles? Do you think that would be of any value? Labelling the contents of the bottle and maybe a precautionary warning?

Ms Cimicata: We have never discussed labelling as an issue, unfortunately.

The Vice-Chair: Would you like to have some closing remarks or have you pretty well finished?

Mr Dockeray: I would just like to say that what we knew about alcohol and its relation to the campus environment 10 years ago and what we know now is tenfold. The present associated alcohol groups are doing their best I can say that, being a Bacchus board member and also the director of ACBM. The days of toga parties and the days of century clubs are over with. By looking at several campuses, you will get an indication of just what is happening—they are only doing it to cover their own rear ends—and that is no pitchers, no shooters, one drink per person, no rounds. This is what campus pubs are doing right now. It is for one reason and that is through their administration to protect their own licence. The days of century clubs and boat races and toga parties and frat house parties are over, for that simple reason. I think it gives you a pretty good indication of where our associated groups are heading and probably 10 years from now will be headed.

The Vice-Chair: Is that the same across the provinces, you anticipate?

Mr Dockeray: I do. I cannot speak for other provinces. I know Ontario is definitely in the forefront of alcohol awareness and definitely in the forefront of alcohol legislation.

Mr Waters: On that topic, you were talking before about the pubs that are just off campus. On campus you are cleaning up your act, but I got the impression—maybe I am wrong—that that type of party has just moved off campus.

Mr Dockeray: This is internally a big issue I just discussed last week with my board of directors. I recently took signs down out of our hallways which were not authorized to be up. Somebody, obviously knowing they can grab a group of peers in one place, like a university, says "Let's go advertise there." "Party at Elk's Lodge, free tequila," hand-written "sponsored by Labatt's." I know for a fact it was not sponsored by Labatt's. I know for a fact there was not free tequila. But there was illegal activity happening at that party.

They will go there knowing we are more conservative at our campus pubs and our campus licensed rooms than they are. That is what is dragging people off campus. We want to provide a relaxed atmosphere as much as we can, not letting them know how much legislation is being put on us, and at the same time keeping in mind that alcohol is on campus to manage on campus. We cannot control them from going off campus, unfortunately. If you have a rugby club that wants to hold a party, two years ago they would have held it on campus. Now they are going to go down to a licensee that is going to flip them a few bucks at the door, take a buck off a beer, give them a few free shots, the board members or whatever. That is generically what is happening right now. We cannot stop that in any way.

The Vice-Chair: Thank you very much for appearing before us today.

CONCERNS, CANADA

The Vice-Chair: Our next delegation is Concerns, Canada: Karl Burden and Alan Staig. Take a seat. We can have some opening remarks. You have three quarters of an hour.

Mr Burden: Thank you very much. I am Karl Burden, the executive director of Concerns, Canada. I have brought with me Alan Staig, who is our chairperson of social action and legislation. We have submitted a copy of our brief and I hope you have that in your hands. But we will go through it in some detail and perhaps allude to other issues.

Concerns, Canada welcomes the opportunity of being part of this agency review process. It is our sincere wish that our comments will be helpful to the members of this standing committee. We have no doubt that the committee members are well aware of the immense responsibility that rests with them as they contemplate the mandate of the Liquor Licence Board of Ontario and examine its effectiveness.

This submission is brief, not because the subject is peripheral to our interest but because, first, we will confine our comments to matters on which we have direct knowledge and opinion. Second, we will avoid repeating much of our submission to the Advisory Committee on Liquor Regulation, the Offer committee of 1986 and 1988; our report to that committee is dated July 1986. Finally, we would value the opportunity of meeting with the standing committee as we are doing at this point.

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Concerns, Canada is an independent community agency funded by voluntary donations from thousands of citizens, service clubs, churches, industries and commerce. The present national charter dates from only 1987, but it replaces an earlier provincial charter of 1943. The organization, however, traces its roots back into the 1880s, with links to groups which even then were concerned about society's misuse of alcohol.

We should tell you that the work of Concerns, Canada is primarily preventive education, and we have submitted in our portfolio a list of the kinds of programs we are regularly engaged in. Most of them have a feature that they address issues related to youth or those who relate to youth.

The area we are dealing with here is a smaller part of the work of our organization, but nevertheless important. Since we have become a national organization, we have found it much more important for us to be aware of what is going on not just in Ontario but across the country, and as a result of that probably our relationships with the Liquor Licence Board of Ontario here have been less active than they may have been in some previous years.

I would like to talk first about the alcohol use in Ontario in a general fashion. The review of the work of the LLBO cannot be done without consideration being given to the widespread consumption abuse and misuse of alcohol in this province. So much has been written on this matter that it seems unnecessary and unhelpful for us to summarize the matter.

In many ways, the effects of alcohol consumption lead to all kinds of disasters that have a permanent and disastrous effect on the lives of citizens of Ontario. Both historically and currently, this is the reason for the Liquor Licence Act and regulations, the enforcement and administration of which is the responsibility of the LLBO. Although the LLBO is a part of the responsibility of the Ministry of Consumer and Commercial Relations, the effects of alcohol use touch virtually every ministry of the government, especially Education, Transportation, Attorney General, Solicitor General, Community and Social Services, Correctional Services and the Treasurer.

Concerns, Canada has an ongoing working relationship with most of these ministries as they deal with their specific concerns. Despite this, we have been unable to detect any attempt on the part of the government of Ontario to create a policy on alcohol use. So we repeat here one of our recommendations which we made to the Offer report. We recommend that the government of Ontario initiate the preparation of an overall statement of policy with respect to alcohol use in this province in such a form as to be a mandate for action by all ministries of the government. We really feel this is an important step forward and would help

unify the efforts to control and oversee alcohol distribution and use.

Looking now at the question of legislation in a general fashion, the function of the LLBO is to administer the Liquor Licence Act. We have believed for many years that the act and its regulations, which comprise some 70,000 words, have become poor legislation, inadequate, unenforceable and in places even unintelligible. To the Offer committee we recommended that the act be repealed and replaced with brand-new legislation. We still firmly hold to this view.

As the standing committee examines the work of the LLBO, the members will be aware of the immense task the LLBO tackles, because of the cumbersome legislation under which it has to operate. The standing committee needs to know that Concerns, Canada recommended to the Offer committee the combining of the Liquor Licence Act and the Liquor Control Act and the subsequent combining of the LLBO and the LCBO into one agency, which might perhaps be called something like the alcohol board of Ontario. There is widespread confusion in the public by the similarity of the initials LLBO and LCBO, and the semantic parallel between the words "licence" and "control." We emphasize that we believe that by combining the efforts, not only simplicity but also clarity would be given to the public.

So far, the government has not adopted our recommendation and we still have the two, LCBO and LLBO, and only one of them of course is being examined today.

Mr Staig: I am on page 8 of our submission and there really are two areas of concern that we bring to you, but as Karl has mentioned, our recent hands-on contact with LLBO has been less than in the past because we find ourselves as a national organization now having to watch over a dozen equivalent LLBOs across this land. But I do want to emphasize that the contacts that we have made with LLBO staff—board and employees—have indicated a constant sense of respect and courtesy to agencies such as ours and we are grateful for the concern and interest that LLBO officers give to the work that we do.

There are two areas on which we have specific comments. Special occasion permits have concerned us for many years for a variety of reasons, not least of which is the fact that there are apparently 400 a day issued and the mind boggles at the administration that must be behind that, and worse than that, the mandate that is with the LLBO to attempt to police and watch over the activities the SOPs are intended to cover.

We do not have an easy answer to this, but there has to be a way. It seems to us, examining the application forms for SOPs, that the work the LLBO staff must do, and the responsibility that rests with the temporary licensee to whom the document is issued, all seems to us to require fairly major overhaul.

I would like to spend a little time, if I may, dealing with alcohol advertising, which is an area that Concerns Canada has been active in and concerned about for many years. It is the policy of Concerns Canada to recommend a total ban on alcohol advertising in all media. We have held that policy for many years. We made that as one of our recommendations to the Offer committee.

As we sit here this afternoon, we still have alcohol advertising and it is still the responsibility of the LLBO to administer and control it. We recognize that as an unenviable task. We do detect a rising clamour by citizens, agencies and juries for a total ban and we feel sure that in the course of time alcohol ads will go the way of tobacco ads and become history. Until that happens we have to accept the reality of the LLBO creating and enforcing regulations and guidelines for all alcohol advertising in Ontario in association with similar regulations of the Canadian Radio-television and Telecommunications Commission of the federal government.

The standing committee needs to know about two reports compiled recently for Health and Welfare Canada. The first of these is entitled Alcohol Advertising on Canadian Television, February 1989, and the second a report entitled Young People's Perceptions of Alcohol Advertising on Television, dated October 1990. The following quotations are from the summary recommendation of the reports.

From the first report, the February 1989 report:

"(i) Up to half of all alcohol ads on Canadian television violate the CRTC code in some way." The CRTC code is not identical but is very similar to the guidelines of the LLBO.

"(ii) Alcohol beverage ads should be assessed at the final stage of production, not as storyboards.

"(iii) Agencies...should conduct research to determine the conditions under which viewers associate the consumption of alcohol with activities involving skill, alertness or danger.

"(iv) 'Collage' or 'mosaic' ads should not be permitted when they depict proscribed activities."

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From the second report:

"(i) 69% of young people"—of this province; actually of Canada of course because it is a Canadian report—"(15-17 years old) report using alcohol.

"(ii) Alcohol advertising communicates positive messages about alcohol use.

"(iii) The main message centres on the association of drinking with having a good time.

"(iv) Alcohol advertising is perceived to reinforce or sanction alcohol use in such a way that contributes to high-risk drinking behaviour."

The CRTC and LLBO regulations and guidelines while not identical are similar in detail and philosophy. The studies made by Health and Welfare Canada indicating widespread violation of CRTC guidelines would almost certainly be a comment on the violation of LLBO guidelines. Our own observations of TV beer commercials reinforce that conclusion.

Therefore, we have a recommendation that pending the complete prohibition of alcohol advertising:

(i) The LLBO advertising guidelines be modified to correct weaknesses that are common to both LLBO and CRTC guidelines;

(ii) The LLBO approve or disapprove of TV commercials in final form, not storyboard; and

(iii) Collage or mosaic ads should not be permitted.

We also recommend that the LLBO provide adequate staff and facilities to ensure that advertising guidelines are strictly followed.

Mr Chairman, maybe the last page, 12, we could use as a wrapup following any questions that your committee may have.

Mr Grandmaître: I was very interested in advertising, especially in the 1990 report where you say that 69% of young people between the ages of 15 and 17 years old report using alcohol. I was reading a very interesting article in the Ottawa Citizen of yesterday on advertising—tobacco advertising and also alcohol advertising—and the effect on young people. They did not have a good answer or a reasonable answer and I do not expect you to have a good or a reasonable answer, but strangely enough 69% of our young people are affected by this advertising.

When you look at tobacco, tobacco advertising right now is forbidden on TV, and yet 30% of our adults apparently have quit smoking but there has been an increase in our young people of 55%. Due to the fact that they do not see tobacco advertising on TV, how come they are picking up the habit and adults are getting away from it?

Mr Burden: If I might just attempt an answer that, the first thing I would say is that tobacco advertising has not been removed throughout the lifetime of those young people. They have been influenced. Influence of advertising, I think, begins as soon as young people begin to watch television, read newspapers and look at magazines. The impact on youth has never been properly measured for a number of reasons. One is the difficulty, if not the impossibility, to use children as subjects for experimental research. We simply cannot use control groups and other groups and try to influence one and let another group go without an influence because of the long-term effect upon those young people. It is immoral, really, for us to do that kind of research. Not that we are researchers.

The other aspect, I think, that is involved here is that young people, particularly female young people, are seeing tobacco use in particular as a way of identification—it appears at the present time—and I think that is again one of the factors the tobacco industry has concentrated on for decades—or perhaps that is not quite right; for the last decade anyway—looking at the role of women in relationship to tobacco use, and I think that has had its effect upon young women today.

It is also a way they rebel against the system, and that has nothing to do with advertising, but I think is a factor as well.

Mr Grandmaître: You were present when we heard from Jeff and Carmi a little while ago about what is going on on their campus and other campuses throughout the province. Do you think we should ban drinking totally on campuses?

Mr Burden: That is a very difficult thing. I went to university—well, I have been in the university a good part of my life actually—and when I was an undergraduate I can remember we did not have campus bars. Anyone who was using alcohol had to go off campus. There are definite problems with regard to that. There is—I think they identified it in the previous report—travel to and from as one of the major ones. I am not sure whether just simply banning in any single group of that nature is going to do anything more than get the ire of the group you are targeting, and probably it will not be effective. I think whatever you apply has to be applied generally across the population.

Mr Staig: If I could add to that, I agree with the previous group that was submitting from Bacchus and I agree with Karl that the process is not so much a legislative one of enforcement of rules as an educational one. Prohibition of alcohol consumption on campus would not help, because the young folks would just go off campus to an uncontrolled or less-controlled environment than if it were on campus, in our view. So we side with Bacchus on that particular subject.

Mr Grandmaître: I was also surprised to hear Jeff tell us of their universal licence that is applied to 100 rooms or 250 rooms in one university. I thought that was a very strange licence, a portable licence. I call this a portable licence. Yet the LLBO is responsible for 400 special permits a day.

Mr Staig: Yes.

Mr Grandmaître: That is quite a revealing factor, and yet these people can transport this licence all over the campus.

Mr Staig: Yes. The strange thing is that, as you know, sir, the regulations and the act itself spell out very precise requirements of licensees—washrooms and tables and space in square feet—and yet as you say there seems to be a carte blanche there that is a bit boggling.

Mr Grandmaître: It is.

Mr Burden: We have just sent out a letter—at the beginning of this year, actually—to every university in Canada, to the senior administration and to the presidents of student councils, alerting them to their legal liability regarding the distribution of alcohol because we felt that was a concern.

Mr Sola: On page 7 of your brief you mention that the present act is unenforceable, yet you do not really expand on it. It is a quick once-over. I would like to see if you could expand on that, because I had a meeting on Friday with a group that has been trying to get the act enforced in order to get a dangerous situation out of its local community, and I would like to get some suggestions from you, if I may, in that respect.

Mr Staig: I think it is unenforceable in a number of directions, because the present act and its regulations are so immense and detailed and complex, and because this province is an enormous hunk of land with a large number of people on it—we will be back to the 400 SOPs a day that are being issued—that it is obvious that regardless of the number of employees the LLBO has, in practice much of the requirements of the regulations are going to be on trust; they are going to be with the citizens to self-police.

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I do not think it is feasible to even contemplate an organization that across this province is going to uniformly apply and enforce the regulations and legislation. Therefore, and this is probably a dangerous statement, the act and its regulations need to be much briefer, more concise and yet adequate so that a greater attempt can be made at enforcement. A law that is unenforceable is a poor law, in my observation.

Mr Sola: In other words, until the law is rewritten you would consider it unenforceable?

Mr Staig: Yes. Not in all aspects, of course. I rush on to say that the LLBO, in our observation, is doing a wonderful job with what it can.

Mr Sola: But there are situations where things have clearly got out of hand, and I am talking about the Oceans 11 Club in my riding, which backs on to a residential area, lots of high-rises, and during the summer the noise is unbearable. During the winter it is not the noise that much because the windows are closed, but the after-hours activity that goes on. In the last two years, there have been over 80 gun and knife violations at that place. It has got so bad they have had to padlock the shortcut to the plaza that this locale is located in.

I was called in on Friday to have a meeting with the citizens because they are at their wits' end. They have tried going to every enforcement agency, every politician. Now they are going to the provincial level. I guess if I cannot help them out, they will probably go to their federal members to see what can be done. Could not the act be enforced in such extremely vivid instances of abuse, rather than the small meanderings from the intent of the law? Maybe that would have some effect on policing and on the self-policing aspect of it.

Mr Burden: I am not sure whether I can exactly identify an answer to your question. Perhaps, though, I could just step back one part. It has been some months since we have gone through an examination of the act, but we did do it as part of a procedure for our committee. One of the things we noted was that the present act is almost like a patchwork quilt. It was created—I am not sure what the date was, but you can find that way back in history and there have been revisions on that act, revisions of parts, not the entire sections, and revisions upon revisions.

When we are talking about it being unenforceable, it is because in some cases if you are using logic you find that the revisions almost contradict something that was stated in another part earlier because it was written in another time and another day. It is that kind of dilemma that we have found. You can always find loopholes in it because of the fact that there are these contradictions. I am not exactly identifying the question because you are looking at a specific issue, but we feel it is very difficult to enforce it simply because it is not a logically put together document that was written at one time with one focus in mind. It is multiple.

Mr Sola: Have you noticed or have you made a study of pubs that become after-hours clubs, non-alcoholic after-hours clubs that go way into the night? This is one of those situations, and I have read of others throughout the Metro area, where the problem becomes more severe once the 1 am closing time arrives. Because they have had liquor on the premises before the 1 am deadline, the police can come in at 3 or 4 or 5 o'clock in the morning and they will just say they did not have time to clean up the premises. Have you made a study to see if that abuse has transpired with this sort of add-on to the existing clubs?

Mr Burden: We certainly have been in touch with the police and we know they are concerned. It has been impressed upon us on numerous occasions that their hands are frequently tied because of the loopholes within that legislation that allow for an after-hours club, and we support the police in which I believe is still their position that they would like to see an end to such after-hours clubs.

Mr Sola: One thing I have noticed is that pub owners or operators are liable for the safety of their clientele if they take the wheel and drive home inebriated, and yet the same club owners can get off scot-free if they get inebriated to the point where they have a knife attack or a gunfight in the parking lot outside their premises, just because according to the ownership of the premises they stopped serving drinks half an hour or an hour before the incident occurred. It seems to me incongruous that you can be responsible for what happens behind a steering wheel as a result of what you did in a pub, yet you are not responsible for a gunfight or a knife fight right beside your premises as a result of what went on in your club.

Mr Staig: I think the courts of the land are taking a wider interpretation of that. It is criminal law rather than statute law. It would appear as we look at coroners' inquests and jury recommendations that society is placing a greater responsibility on servers, whether it is a person or whether it is a company, on whatever happens once the inebriated person leaves the premises. It would seem to us that pinning down the precise circumstances for responsibility, litigation and so on, is probably less desirable than letting the process of criminal law and case law fall into place, whereby the server and the corporations behind the server have to accept responsibility.

Mr Waters: I was wondering about the labelling aspect. Do you feel that labelling of the bottles is going to change anything, or if there is an education process that would help in the immediate future?

Mr Staig: There are two kinds of labelling, and I would like to address them separately, if I may. The labelling I suspect you are talking about is warning labels such as are appearing on cigarette packages. We believe very firmly that should happen. Almost every consumer product, whether it is a food or a drink or a household cleanser, must have regulations on it as to how these things should be used. One of the few exceptions is our alcoholic beverages, which are not so labelled, so we strongly advocate that there should be rotating warning signs on containers.

There is another interpretation of labelling that is as important in our view, and that is content. The requirement of the federal legislation that products we take into our bodies have their containers labelled with ingredients has very few exemptions. One of the exemptions is bulk foods,

fresh meat, fresh fish. Almost everything else we ingest has to be labelled with ingredients. There are a few problems with that, but at least that is required. One of the few exemptions to that legislation is alcohol. We have had discussions with the Allergy Information Association, which is very concerned about the number of legal additives that can be added to alcohol products, particularly to wines. There are some 16 products that may be legally added to wines and some of these are highly allergenic. That is another area we have a concern about.

Mr Waters: On the education aspect, do you think there is anything immediately that we could do with education, let's say with the young people on the campus that were in here just prior to you, to assist them with that type of thing?

Mr Burden: The concern we have with regard to education is that in order to be effective it has to be multifaceted. There is no one educational program that will work with a target group, no matter what age group you are looking at, completely. What we are putting our support and our faith in these days—by "we" I mean any of those of us who are involved full-time in preventive education in the area of addictions and substance use—is a focus on education that beams messages to the target audience, particularly young people, from a wide variety of audiences and ways in which to meet them. In other words, we would have programs for the school system, we would have programs that would come through the media, we would have programs that would come through corporations, messages that might be contained on packages of other materials, slogans, signboards, a whole variety of things. We see all of this as part of an educational package, which can be effective.

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The Addiction Research Foundation has done enormous studies of individual programs in prevention and almost without exception it finds that a single program by itself fails to accomplish its objectives, which is to change perception and to change practice. However, what they have learned and what is demonstrated in Ontario, particularly over the past decade, is that something is beginning to work, because alcohol and other drug substances are on the decline among adolescents in high schools.

What we feel is the answer to this is the fact that our society is becoming more aware of the problems related to abuse of chemicals. The messages are coming through impaired driving concerns. Even a change in the media attention. Our humour has even changed. If you notice, jokes today about drunks are not popular; a decade or so ago they were. All of this is part of an educational process and it is beginning to have its effect. Definitely education is important but look at it in the larger picture.

Mr Waters: Do you see that as part of the responsiblity of the LLBO, to be involved with education?

Mr Burden: Not really. There probably is some place where messages can be effectively communicated through something the LLBO has responsibility for, but I do not really see that as the mandate of the LLBO.

Mr Staig: It comes back to what I said a few moments ago, that in our view the government of Ontario should be creating an alcohol policy so that the entire emphasis of the government, through whichever ministry is appropriate, can be cohesive and make sense. In some places it may be the Ministry of Education, of course. Some of it may be Ministry of Transportation, some of it may be—well, you can name the ministries off. I do not think it is the mandate of the LLBO primarily.

Mr Wiseman: As this has taken a direction in education, I spent 15 years in the education field before I came here and on more than one occasion I had to go to a funeral of one of my students who had died after drinking and driving. I am a little concerned about the message we sent when we allowed the change in the act that allowed motor car events to be associated with drinking, for example the Molson Indy. I would like you to comment on that.

Mr Burden: We strongly disapprove of that change in the act that has allowed that to happen. There is no doubt any sport or any activity that involves certain risks because of speed or handling of a machine or anything else should not be associated with the use of alcohol products. We definitely do not agree with advertising that allows such things as the Molson Indy to take place.

Mr Wiseman: Can I take it that you would like to see it changed back to the way it was before?

Mr Burden: I certainly would, if not further back.

Mr Johnson: I could not agree with you more that if they labelled the ingredients of some of the alcoholic beverages we drink we would be a little more concerned about drinking them, either drinking them at all or how much we consume.

But with regard to the responsibility and liability of the servers or the bar owners, while I think there should be some liability, without a doubt, I am not sure how you would proportion the liability if someone should come into a bar who has consumed a large quantity of alcohol previous to coming to a particular establishment. How does the server know whether that person has consumed a large amount of alcohol, a medium amount of alcohol, just a little alcohol? Do they serve them the remaining proportion or do they not serve them at all? Would you agree that it might be wise that we train the people who serve patrons in bars, establish some kind of training program so that they can become familiar with identifying people who have previously consumed alcohol?

Mr Burden: We would go one step further. We would feel that the servers of alcohol should be required to have training for server identification, so that they can recognize the signs and symptoms of a patron who has overindulged before he arrives or who has, while he is there, taken too much. It is not easy, as you are saying, particularly when a person is sitting at a table and perhaps just talking with people around the table. It is much more difficult to measure the effect of that alcohol than it is if they are walking around or dancing on the floor. It is very difficult but we do believe that server training will help to reduce the incidence of abuse. It will not totally remove it.

We have been concerned on another issue. It does not technically come under this concern but we are concerned about the serving of free alcohol on airlines. Again, you have the same problem. You have a patron who is sitting pretty well motionless and has the opportunity to consume. It is extremely difficult for those who are serving the alcohol to measure the effect, yet that person may get off a plane and a few minutes later be behind the wheel of a car. While it is not a foolproof thing to train servers, we do believe it is a move in the right direction and it should be required.

Mr Johnson: I agree. I think that would be a super thing. I am not sure how reliable that training might be, given the real life circumstances. If I owned a bar I probably would not serve alcohol, because given the laws today I would think that continually people must be in liable positions and either know it and take the risk or do not care.

Mr Staig: One of the directions that is going is through insurance. Corporations that operate taverns and hotels and restaurants and so on buy liability insurance; that, of course, covers or protects or umbrellas them against litigation. The insurance industry is getting more and more concerned about the potential for massive litigation with respect to alcohol consumption, far more than, for example, a hotel without an alcohol licence or a restaurateur without alcohol. I think what is going to happen and should happen is that the insurance companies should be requiring server training as a condition of insurance.

Mr Johnson: Given the potential for, I believe, some major lawsuits, it must be a substantial cost to bar owners to obtain this insurance.

Mr Staig: Yes.

The Vice-Chair: You indicated you had a wrapup you would like to make at this time.

Mr Staig: I would like to thank the committee for this opportunity of meeting with us, spending valuable time on a vast subject. We appreciate very much this opportunity of doing that.

It seems to us, in conclusion, that the government of Ontario, be it through the LLBO or any other ministry or agency, must not be seen to be promoting, marketing or even encouraging the promotion of a product that is fraught with such potential and proven health hazards as alcohol. While it may be true that governments are unlikely to succeed in legislating human behaviour, they do have the power, and the duty to exercise it, to educate, encourage and persuade citizens to a standard of conduct or a way of life that does not depend on the use of alcohol. Thank you.

The Vice-Chair: Thank you very much for your time.

Wednesday's meeting is in committee room 2. We will not be here tomorrow.

1600

COMMISSION MEMBERSHIP

Mr Bradley: Just a procedural point, perhaps, or a point of information, Mr Chairman: We are having people in tomorrow from something called the Fair Tax Commission. I object to the use of the words "Fair Tax Commission." I think it is a tax commission. "Fair" is the political adjective used by a government, not by anyone else. It is a tax commission. It is looking at the taxes. The government can say it wants to make them fair, in its opinion, but I think it is ludicrous that we keep calling this the Fair Tax Commission. I would hope that some members of the media would not be taken in by this calling it a Fair Tax Commission. I am sure they will not be, because they are intelligent and perceptive people; nor should the members of this committee. So I object to the use of the words "Fair Tax Commission." It is a tax commission.

Mr Stockwell: That was part of my comments in the beginning. I take great exception to the fact that it is called Fair Tax Commission as well. I think it is anything but the Fair Tax Commission. Maybe it would be better to label it the slanted tax commission or the NDP doctrine tax commission, or something, but "fair" is certainly not the word that comes to mind when I review the information before us.

The other thing I would like to talk about is this brief outline we received today, I guess, and I assume that the people who we are asking to interview have in fact read this. This looks to me like some kind of terms of reference for the NDP-slanted tax commission. What I would like to know is, why is it set up in this fashion? If they have agreed with it, then really they are not coming in with open minds, and I think rather than go through the charade of interviewing these people after seeing this—I apologize for not being here last week; I was going through a charade on another committee.

Why are we going through this charade when as you can see, under "Specific Issues to be Examined by the Commission"—I assume the commissioners of this tax committee have read this, it is so slanted—it says, "What changes to, or restructuring of, existing tax-delivered assistance would increase the fairness of the overall tax burden on low-income individuals and families?" I would hardly say as a term of reference that is coming at it with a purely objective view.

The second one is, "What viable options does Ontario have for introducing a wealth tax to improve tax equity?" Therefore, we are assuming there is no tax equity and we will need a wealth tax to create tax equity. "What type of corporate minimum tax would be most effective at improving the fairness of the tax system by ensuring that all profitable corporations pay a fair share of the corporate tax burden?" That is assuming that now they do not.

We knew this was a charade to begin with. This has absolutely confirmed the charade. It has confirmed the charade of the commission, because I assume that the commissioners read this and agreed with it. It is slanted NDP doctrine. It really begins to grate on my nerves exactly how slanted, how boldfaced and obvious this government is with respect to its tax commission. So I am having serious problems with continuing it.

I would ask the committee tomorrow to think this through in their minds after reading what they have been given, which is again slanted NDP doctrine, and decide in their own minds whether they want to waste a lot of

taxpayers' money going through the charade of interviewing these people who probably agreed to the manifesto here.

It is going to waste a lot of time of government members. It is going to waste our time. It is going to waste the time of these commissioners who have been handpicked by the Treasurer. It is going to cost the taxpayers a lot of money. Why do we not go on to something a little more productive, maybe a little less partisan than this tax commission, because clearly the announcements in the very recent past, and now this bit of dogma that we get today, have clearly outlined the total commitment this government has to, not the Fair Tax Commission, but changing it against certain segments and certain people within our society today.

The last point I would like to make is also included in this package and I would like a correction on this, or I would like the clerk to determine if this is in fact accurate, that one of the people on this tax commission resides in Quebec. I have great difficulty that out of nine million people or so in this province—I could be corrected on the population—we are striking 10 to strike a new and improved NDP tax policy and we cannot find 10 people in this province to staff this committee. If I am wrong and this person does in fact live in Ontario, then I withdraw the remarks, but she included as part of her curriculum vitae that she in fact lived in Hull, Quebec. I believe fundamentally that if anybody is going to comment to this provincial government on what makes our system fair or unfair, she should at least have to pay taxes in this province.

I think that is the minimum requirement we could ask for, and even those members across the floor here, no matter how much they buy into Treasurer Floyd's arguments and no matter how much they will have to march to the government drummer, even they should be able to buy into the theory that this person, or all people, should have to reside in the province of Ontario. If I am wrong, I will retract it.

The only information I have is that her address is somewhere in Hull, Quebec, and the person is Susan Giampietri, 6-208 Des Trembles Boulevard, Hull, Quebec. I would ask that if that person does in fact reside in Quebec and does not reside in Ontario, she be immediately struck from the commission and a new search be put out to supply another person. I would ask for all-party agreement on that. Even the deep thinkers across the floor could see the logic in that.

Mr Hayes: Speaking of charades, I get a little tired of these people who just happen to drop in and put on their big show so they can get their Hansard out to their people and say, "Look at all the good little things I said."

Mr Stockwell: I was in finance last week.

Mr Hayes: I listened to you very patiently there, Mr Stockwell.

Mr Stockwell: You said I happened to drop in. I was in finance last week.

Mr Hayes: So you happened to drop in. I think I am getting the impression that he is probably not going to be here tomorrow. I could be wrong on that.

Mr Stockwell: No, I will be here tomorrow.

Mr Hayes: You are going to be here? I am glad to hear that because you interrupted another group here earlier. As far as the fair tax system is concerned, I think that is what we want. Do we not want a fair tax system? That is what we want to put together. I think you made comment about things being slanted. I think if we are going to appoint people to any agencies and boards, I am sure you do not expect the government to say, "Here are the negative things about the people I want to put on the committee," do you? I do not think we want that. I think what we want are the positive notes that have been given to us regarding these people.

Mr Grandmaître: Mr Chairman, I would like you to refresh my memory, or any member of this committee for that matter. When this committee was given additional responsibilities like looking after or reviewing appointments, that added responsibility was discussed in the House. It was a three-party agreement, if I can call it an agreement; it was voted on. I remember the Treasurer talking about this commission in the House. I am just wondering, was this accepted by all three parties, that this commission would be in place? Did we vote on this in the House? I cannot remember.

The Vice-Chair: I do not know. I am not sure what the situation is, but I do know that what we are trying to do is to—

Mr Grandmaître: I know what they are trying to do, Mr Chairman, I know, but I am just trying to compare additional responsibilities, for instance, the appointments that are going through, the review of appointments that are going through this committee. I want to be fair to the Treasurer. I remember the Treasurer mentioning in the House that he intended to put a commission through, but I just want to find out, was this accepted by all three parties or what?

The Vice-Chair: We will have the clerk check that out. The agenda for tomorrow: Somebody had some concerns about it. Is there a problem with it as it is set up?

Mr Hayes: No problem.

Mr Waters: Yes, we took care of it.

The Vice-Chair: Okay, fine. No further business of the committee?

Mr Stockwell: I just have a question. I did not understand the point Mr Hayes was making. You want to put positive things forward. Can you clarify that for me? Thank you so much.

Mr Hayes: My question would be, to you of course—I do not know if we have to ask one another questions back and forth—

The Vice-Chair: Through the Chair, of course.

Mr Hayes: I think it would be foolish for a government to say: "Here are some people whom we want to appoint to an agency or a board. Now here are all the negative things." I think we should be certainly looking at the positive points and why we would like these people appointed. When you say that we have, when we have—

Mr Stockwell: You consider living in Quebec to be a negative point.

Mr Hayes: I am not even questioning that. What I am saying is that we certainly want to get the right people on the board with good qualifications and it appears that the Minister of Revenue feels that way towards these people.

Mr Bradley: The other point that would be raised, and perhaps this can be raised when the people are before the committee, though I think it is not theirs to answer, it is the government's to answer, is that if you look at this committee, I do not think anybody on the side that is the governing side, and on the opposition side with the exception of the member for Etobicoke West, is from Toronto. I think the commission is dominated by people from Toronto. We have. I would guess, 70% of the people from Toronto, and it has another person from Hull, Quebec. I could stand to be corrected on that, but I think what has happened when the commission is set up is it does not truly represent all of the province of Ontario.

I guess that says that perhaps in Muskoka there is no expert that could be put on this committee, or that in Lambton county they do not have a person who would qualify to be on this commission. I do not know that. Prince Edward-Lennox certainly has a lot of people who are eminently qualified, and Essex county, I know, has some wonderful people. I look at the commission and say that it is in fact dominated by Toronto people.

This is something this committee may want to look at, overall, when it looks at commissions, because I do not know how you ask a person, "Are you from Toronto, and therefore are you biased?"

Mr Stockwell: That is a good start.

Mr Bradley: But one of the things all governments run into—it is a difficulty—is do all the experts reside in Toronto? It is more convenient, I understand that, to have Toronto people for meeting purposes. I often wonder if when governments, plural and generically, set up commissions, they do not really consider that there are lots of parts of the province of Ontario that should be represented. That is something perhaps when the committee gives its final report on these people, it may make some note of, the fact that if the committee feels that to be the case, that it does not geographically present itself as a commission representing Ontario—we may not draw that conclusion at the end.

The Vice-Chair: Thank you. That will conclude our deliberations today. The committee is adjourned until 10 am tomorrow morning.

The committee adjourned at 1612.

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Appointments review

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Ontario Municipal Board

Chair: Robert W. Runciman
Clerk: Douglas Arnott

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Comité permanent des organismes gouvernementaux

Révision des nominations

Examen des organismes gouvernementaux :
Commission des affairs municipales de l'Ontario

Président : Robert W. Runciman
Greffier : Douglas Arnott

Publié par l'Assemblée législative de l'Ontario
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 12 February 1991

The committee met at 1007 in committee room 2.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: Come to order, please. The first item of business this morning is a one-hour review. As you know, under our process we set aside blocks of time, but because of the inability of some of the appointees to get here in the block, if you will, in terms of recommendations of the official opposition and the third party and the government, we have had to do some juggling.

MONICA TOWNSON

The Chair: The first witness to appear before us this morning is an intended appointee as the chair of the Fair Tax Commission, Monica Townson. Welcome to the committee. Would you like to make some opening comments before we get into some questions?

Ms Townson: I do not have very much to say other than I guess you have my CV in front of you. I think my qualifications and professional experience are a good preparation for this appointment and I would certainly welcome the opportunity to contribute to the process of establishing an equitable tax system in the province.

The Chair: Thank you very much. We will open the questioning. Mr Grandmaître.

Mr Grandmaître: I think this is a great candidate because she has spent quite a bit of time in Ottawa, so she will be a great commissioner. I really do not have any specific questions to ask of Ms Townson.

The Chair: We can come back to you, Mr Grandmaître. You will have the block of time.

Mr Grandmaître: I want to ask the Chair a few questions, Mr Chairman, without interfering with Ms Townson's time. Is there a sunset review or a sunset clause attached to this commission?

The Chair: I am not sure but I will refer you to our researcher.

Mr Pond: I phoned the Treasury officials a couple of days ago to find out what the legal status of the Fair Tax Commission was, and I was told it had been created by the crown prerogative, the common law authority of the Lieutenant Governor in Council and not by statute. Therefore the commission, as I understand it, is outside of the Management Board of Cabinet guidelines, which means it is not subject to the sunset provisions in the Management Board of Cabinet guidelines. It is at the discretion of the Treasurer, who is the minister who signed the order in council.

Mr Grandmaître: So it is an ongoing commission?

Mr Pond: As I understand it.

Mr Grandmaître: For the time being. How did you find out about this commission, Ms Townson?

Ms Townson: It was announced in the speech from the throne, I believe, that the government intended to establish it, so that was how I heard of it.

Mr Grandmaître: Were you interviewed for this position?

Ms Townson: In what sense do you mean? I was approached to see if I would be interested.

Mr Grandmaître: Were you interviewed by the Treasurer himself?

Ms Townson: No, not personally. I have met him since, but the initial approach was from someone in his office.

Mr Grandmaître: Were you given any specific guidelines to follow?

Ms Townson: In terms of myself or my education or what?

Mr Grandmaître: What the commission was trying to accomplish, the ideals, the objectives.

Ms Townson: Yes, I certainly am aware of the general mandate of the commission, which is to look at the tax system in Ontario from a number of points of view and to establish ways in which it could be made more equitable, and also to provide ongoing advice to the Treasurer.

Mr Grandmaître: As you know, Ms Townson, the former government, when I was part of it, introduced a number of new taxes in the province of Ontario, such as the commercial concentration tax specifically in Metropolitan Toronto, and also a tire tax and the employer health tax. I am not asking you to commit yourself, but what did you think of these increases in taxation, especially the commercial concentration tax, and let's pick the tire tax and the employer health tax? What are your thoughts? I am not going to make any notes, I promise you.

Ms Townson: I do not know that I prepared to comment specifically on each of those taxes. What I am interested in, and what I think the mandate of the commission is, is to look at the whole ball of wax, so to speak, and see how particular tax initiatives like the ones you were mentioning fit into the whole picture, how they interact and how overall the tax system can be made more equitable. That is my understanding of what the commission is going to be looking at. That is certainly my interest too.

Mr Grandmaître: Good. I have noticed, going through your CV last night, that you have been very interested in women's issues. How do you think our tax system at the present time is affecting women in Ontario or in Canada?

Ms Townson: As a matter of fact, I am just working on a book that I am writing for the federal government.

Mr Grandmaître: Yes, I noticed that. Could we get a copy of it?

Ms Townson: I am only just working on it, but what I am looking at in that is the impact of the tax system on women. There are ways in which it can affect women indirectly, what is sometimes referred to as the systemic effect, and things like whether a tax break is given to families, for example.

They may have an impact on married women that is unintended, where there are programs for single parents, for example, deductions and so on. That may have an impact. Where there is a sales tax, that usually has more of an impact on those at the lower end of the income scale, and that is generally women too. There are a number of ways in which the tax system can affect women, and not all of them are intended. They are sort of unintended impacts sometimes. As I said, that is what I am working on right at this moment actually.

Mr Grandmaître: I wish you well.

Ms Townson: Thank you.

Mr McLean: Had your group met yet as a group when the announcement was made?

Ms Townson: No. We had a dinner but that was all.

Mr McLean: Looking over the numbers of people that are recommended here, there does not appear to be anybody from the health care delivery system, health care institutions, agricultural community, the export community or the manufacturing base industry. How are you going to deal with these areas that are not covered by people with backgrounds that have had some knowledge of that?

Ms Townson: One of the ways in which the commission would deal with that, as you have probably seen from the mandate, is to involve all sectors of the Ontario economy and society in making presentations and being involved and so on. Once the appointments of the commission members are confirmed, the commission will then meet, as I understand it, and at that time we will be able to flesh out our mandate. There would be nothing to prevent us from establishing groups or making some kind of formal input from those sectors you mentioned.

Mr McLean: The Treasurer has indicated on many occasions that for a lot of companies that do not pay tax, there should be an 8% minimum tax on all businesses. Do you agree with that statement?

Ms Townson: One of things we are asked to look at is the possibility of the corporate minimum tax. That will be one of the things we will be investigating. I think there will be research and there will be input from the business community to see whether or not that will be feasible.

Mr McLean: Would you believe that if a company made a gross income of $250,000 per year, a small business, it should not pay tax?

Ms Townson: I do not think you can answer that statement just categorically yes or no. I think you have to look at everything that is involved. Corporations should pay tax, in my view anyway.

Mr McLean: Regardless of what their income is?

Ms Townson: Normally the taxing of individuals and corporations is based on their ability to pay and it is usually graduated, and in taxation in business you would look at the circumstances too. If you are concerned about incentives for small business, for example, you might want to offset those with other incentives. But those are the kinds of things the commission would be looking at. At this point, I do not have any preconceived ideas on how this should be done. What I would like to do is wait and see what we turn up in terms of research and input from those communities as well.

Mr McLean: But really what I am hearing is that we are going to have all the farmers go out of business now, because they are broke as it is and they cannot afford to pay tax. The people who are growing the food for us will be out of business.

Ms Townson: I did not say anything like that, no. I said we were going to be looking at the whole spectrum of the economy and looking at the different sectors and so on. Hearing from those sectors, that whole public participation, I see as a very important part of this process.

Mr McLean: I would hope it would be part of it and taken into consideration when the tax law is changed. That is all I have for the present.

Mr Stockwell: Do you believe there is a need for restructuring of the existing tax-delivered assistance that would increase the fairness of the overall tax burden on low-income individuals and families?

Ms Townson: Tax-delivered? I am sorry, I did not catch that.

Mr Stockwell: Is there a need to restructure our existing tax-delivered assistance.

Ms Townson: You mean social assistance?

Mr Stockwell: Well, "What changes to or restructuring of existing tax-delivered assistance would increase the fairness of the overall tax burden on low-income individuals and families?" Do you believe that the tax system as it is today is slanted unfairly against low-income families?

Ms Townson: I think that is certainly a possibility, and it is a perception of many people that the tax system is unfair. What the commission will be trying to do will be to establish whether or not it is unfair.

Mr Stockwell: No, I understand what the commission will do. I am asking you, do you believe it is slanted unfairly?

Ms Townson: I said I think that is a possibility.

Mr Stockwell: So you do not have a preconceived—

Ms Townson: I do not have strong views on all of this. As I said to the previous questioner, what I would like to do is go into this with a relatively open mind and see what is turned up. I think the whole basis of the mandate of the commission is to look at a more equitable system.

Mr Stockwell: Did you read this information on the Fair Tax Commission put out by the provincial government? I assume you got that?

Ms Townson: Yes.

Mr Stockwell: There does not seem to be any interpretation in here. I hear a little bit of interpretation from you and what I get from the government is very clear.

That leads into the second question. "What viable options does Ontario have for introducing wealth taxes to improve tax equity?" I ask you the question, do you believe wealth taxes would improve tax equity?

Ms Townson: They may or they may not, but I do not think you can answer these questions at this point. That is what the commission is charged with doing: looking at these questions and stating whether there is an option.

Mr Stockwell: But it is very clear under the specific issues to be examined by the commission, the specific issues mandated to your commission. Now you are telling me one thing and gee, the government is telling me something different.

Ms Townson: No, I do not think the government is telling you anything. I think the government is saying, are there options for introducing wealth taxes? That is something the commission is asked to look at.

Mr Stockwell: Yes, I agree, but—

Ms Townson: The commission might decide, no, there are not, but what we are asked to look at by the Treasurer is whether there are viable options for introducing that.

Mr Stockwell: It says "wealth taxes to improve tax equity," therefore assuming very clearly that there is not tax equity.

Ms Townson: Well, the commission would have to decide that once it starts going and once it starts receiving research and input from various communities and so on.

1020

Mr Stockwell: I do not understand the point you are making. It is very clear in the "Specific Issues to be Examined by the Commission" that the government has put out that, according to this phrase, there is not tax equity, and wealth taxes should be examined as a viable option to make a more equitable tax system. That is what they are saying, and you are telling me you do not necessarily believe that is in fact the case.

Ms Townson: No. I said we are asked to look at what viable options are there for introducing wealth tax. It may well be that the commission would decide there are no viable options, but it could be that it will decide there are. At this point obviously, the commission has not even met, nor have we started to look at research or have input from various communities or whatever. This is the list of things that the Treasurer wants us to look at.

Mr Stockwell: There is also, "(e) What type of corporate minimum tax would be most effective at improving the fairness of the tax system?" Do you agree with that statement?

Ms Townson: That is a question we are asked to look at.

Mr Stockwell: With all due respect, I can read this and what it says is, "What type of corporate minimum tax would be most effective at improving the fairness of the tax system?" That question is very leading, that is, what type of corporate minimum tax, of a number of them, would need to be implemented to create a fairer tax system? It is not assuming that they should not implement a minimum corporate tax. It is not saying, "Maybe we will; maybe we won't," but "Yes, we will, we are just determining which one would be the most fair."

Do you agree that in fact we need categorically a corporate minimum tax and that we will determine which will be the most fair so we can implement it to create a fairer tax system? Do you believe beyond a doubt we need a corporate minimum tax?

Ms Townson: I do not know at this point. That is why I want to get working on this commission, to establish whether or not that is feasible. This is the agenda for the commission and this is what we are asked to look at.

Mr Stockwell: And you do not see a certain slanted bias in the "Specific Issues to be Examined by the Commission"? You do not see that there is a slant or a certain bent to this that in fact creates the impression, at least the impression, that you are heading down a certain road?

Ms Townson: These are specific things we are asked to look at by the government. We can examine other things too. In fact, I think it says in here that, if there are other issues we feel we should be looking at, we can add those to the list.

Mr Stockwell: Do you have any political affiliation?

Ms Townson: Yes.

Mr Stockwell: With what party?

Ms Townson: With the NDP.

Mr Stockwell: Are you a card-carrying member?

Ms Townson: Yes.

Mr Stockwell: Did you work in the last campaign?

Ms Townson: No.

Mr Stockwell: Did you contribute in the last campaign?

Ms Townson: Financially, yes. But I have always kept my political affiliation separate from my professional life. I do not see that it has any bearing on it.

Mr Stockwell: You do not see that it has any bearing that you are a card-carrying member of the NDP who contributed in the last election and now you are chairman of the tax commission?

Ms Townson: No. My professional qualifications and experience, I think, speak for themselves.

Mr Stockwell: Thank you. No more questions.

Mr Johnson: A previous member mentioned a slant, and the only slant that I have seen at this meeting so far is what he has had to offer us, quite frankly.

Ms Townson, as I have reviewed your CV, it is most impressive: Economic Council of Canada, you were chief of public communications; Centre for the Study of Inflation and Productivity in Ottawa, senior economic adviser; Canadian Advisory Council on the Status of Women, vice-president and director of research; Royal Bank of Canada, head office, economics department, economist/writer; Financial Times of Canada, Montreal economics editor. You

have indeed kept any political affiliation outside of the framework of your business.

As well, I see that you have many publications and work in progress at this time and I just want to repeat that your CV is most impressive. You obviously have considerable experience and knowledge to bring to this committee. My question is simply this: How does your economic consulting background facilitate your ability to assess good public policy on taxation matters?

Ms Townson: A lot of the work I do is involved with public policy and that involves tax policy as well. Specifically in the tax area, as I mentioned earlier, I am currently working on a booklet for the federal government, through the Canadian Advisory Council on the Status of Women, on the impact of the tax system on women. I have also done work on the development of tax policy and so on. I am familiar with the whole process of public policymaking, as you will see from my CV there, through a whole broad range of areas. So I think I have some good background.

Mr Johnson: I would agree. I think you have an excellent background for the job you have and the task you have ahead. Thank you.

Mr Wiseman: I would like to pursue your CV as well. One of the comments here is, "Conducts research into economic and social policy, with special reference to income security and social programs, labour market issues, and status of women" and that some of your clients have included the United Nations Economic Commission for Europe, federal government departments and so on. When you were doing this research, did you have an opportunity to also take a look at some other tax systems around the world? Was that part of the mandate there?

Ms Townson: That particular piece of research was not related to tax specifically; it was related to the economic situation of women, so tax was only a marginal issue in that case.

Mr Wiseman: Would this research give you a good background into sort of being able to compare what is happening in other jurisdictions to what is happening here?

Ms Townson: Yes. In fact, that particular piece of research involved the United Nations Economic Commission for Europe, which in fact combines both eastern and western Europe, and North America. That was looking at policies in all of those of countries, and Canada and the US as well.

Mr Wiseman: Just to move down a little bit, "Editorial consultant." It seems that you have done some work for the C. D. Howe Institute. Is it possible for you to elaborate a little bit about what you did for the C. D. Howe Institute?

Ms Townson: Yes. Those that are listed as editorial consulting was working on studies that were produced by those organizations, including C. D. Howe and a number of corporate clients, where I was working with that material and trying to translate it into language that the general public could understand. It involved a knowledge of the technical aspects of their work and also the ability to communicate it to people who were not technical experts.

Mr Wiseman: Would you see that as being a very major part of your job as chairman?

Ms Townson: Yes, I do. I think this ability is important in this commission, because one of the things the commission is asked to do is to inform the general public about the tax system and how it works and to communicate those kind of things to the general public in a non-technical way and also to be a leader in forming a consensus among the various people who have input to the Fair Tax Commission, so I see those skills as important to the working of the commission.

Mr Wiseman: I have also seen that you have done freelance journalism for the Financial Post.

Ms Townson: Yes, I write regularly for the Financial Post, in fact a column twice a week on personal finance, which involves a lot of stuff to do with tax and with pensions and retirement and investment and that kind of thing. So I have quite an extensive knowledge of the tax system and of those kinds of issues.

Mr Wiseman: I also see that you worked for the Royal Bank of Canada at its head office and that you were responsible for communicating the bank's perspective on economic matters. Was this still in line with being able to communicate effectively with the jargon and translate it into readable and understandable—

Ms Townson: Yes, that is true. In fact, a lot of my career has been involved with that. As you know, I have a degree in economics, but a lot of my career has been spent in trying to take technical information that I am able to understand because of my background and communicate it to people who do not have the technical expertise but who need the information that is being generated. So I would see that skill as quite an important one in terms of the work of the commission.

Mr Wiseman: Do you feel comfortable chairing meetings and being part of meetings and organizations?

Ms Townson: Yes. I have had quite a bit of experience in that. As you will notice there, I was with the Canadian Advisory Council on the Status of Women in Ottawa as vice-president and that involved a lot of chairing of meetings all over the country, as a matter of fact, so I am quite comfortable in doing that.

Mr Hayes: Ms Townson, your résumé also indicates that you are an "editorial consultant to public and private sectors." Can you explain to us or maybe elaborate a little bit on how you feel your experience here would really enhance your role in this commission?

Ms Townson: Yes. In a way that was part of my response to Mr Wiseman just now, in that the editorial consulting that I do involves, as I was saying, translation of technical information into language that people can understand. It also involves working with a number of different types of organizations from federal government departments to consulting firms like McKinsey to private clients like the Bank of Montreal and Shell Canada and so on. So I am used to working with people from the business community and

from community-based organizations and so on. I think those skills and abilities will also be valuable in terms of working for the commission.

1030

Mr Johnson: This is more on a personal note, I guess. Just for my own curiosity, I wanted to know, I studied economics at the Labour College of Canada at the University of Ottawa, and Sidney Ingerman was my professor there. I wanted to know if you knew him.

Ms Townson: Yes.

Mr Sola: Ms Townson, I would like to ask you, when you were approached to accept this position, were you given a time frame that you were expected to sit on this commission? Would it be for the mandate of this government, a five-year time frame or would it be a one-year expectation from you? I think somebody with your impressive credentials must have been given some sort of sense of how much time she would have to dedicate to this commission.

Ms Townson: My understanding is that the mandate of the commission is for a period of three years. In terms of my own personal involvement, I do not know. This is clearly not a full-time appointment. I am told it is a few days a month, but I think that is going to vary according to the volume of work that is coming through the commission. There may be times when it is quite a strong commitment a month and there may be other times when it is only a day or two. I think on an ongoing basis that will vary.

Mr Sola: Okay. At the same time, I guess, comes the next question. I am not expecting you to divulge it, but was there any remuneration mentioned when you were approached?

Ms Townson: My understanding is that there will be the usual rate that is paid to members of commissions. I am a member of the Pension Commission of Ontario, as you will see from my CV, and there is a standard rate that is paid in Ontario to members of commissions like this, and I am told it will be the same kind of rate for this commission.

Mr Sola: Okay then, when you were approached, were you expected at the end of your term to come up with a broad overview, a broad set of recommendations, sort of à la Thomson report for the social services commission here in Ontario in the last session, or were you going to come up with a certain series of ad hoc recommendations in accordance with the questions posed on this sheet that we were given?

Ms Townson: I think it will be a kind of a combination of both, if you will. I understand the reason why this is not a royal commission is that there was a feeling that the government did not want to sort of go for years and years without anything and then at the end get this massive report. So I think the intention is, as I understand it, the commission will issue reports along the way, every few months, depending on what research it is generating and so on, and there will also be, as I understand it, a report with recommendations at the end of the period of time. But that would mean, as I said, there is nothing to prevent the commission from issuing reports in the interim and making recommendations which could be acted on if the Treasurer so wishes.

Mr Sola: But we can look to a recommendation at the end for a broad overhaul of the whole system?

Ms Townson: I would think so. I think at this point it would be premature to say exactly how that would work, but as I said, there is nothing to prevent the commission from issuing reports in the meantime. In fact, I think those are expected. So there might be one, for example, on one of these specific issues that we are asked to look at that might come out within the first year or even in a shorter period of time.

Mr Sola: In the introduction of this commission, it says, "Objectives of the Fair Tax Commission," and in the third paragraph it says one of the objectives is to "enhance the public's understanding of the tax system and thereby increase the system's sense of legitimacy." Is this not some sort of public relations on behalf of the government, this specific sentence?

Ms Townson: I would not see it as that, no. As I was answering a previous questioner over here, the columns I do in the Financial Post are specifically answering questions from readers and my experience has been that the average person does not understand the tax system. The way I interpret this part of the mandate here is that there is a need to communicate how the tax system works—what is the impact of the tax system on the people, how the various types of taxes interact with each other and so on—and my experience, as I said, has been that there is a real need for the public to understand just the mechanics of it. That is the way I would interpret that part of the mandate.

Mr Sola: I just thought of another thing. Since this is a provincial commission, will your recommendations be applicable to the federal scene as well?

Ms Townson: I think inevitably they will have to take into account the way that federal and provincial taxes interact and there may conceivably be some recommendations that would have an impact on the federal system. I do not think you can study the provincial system in isolation from the federal, so that will clearly have to be taken into account.

Mr Sola: I wish you well and I hope you have the same impact on the tax system that the Thomson commission had on our social services.

Mr Grandmaître: Ms Townson, you were saying you were expecting to sit twice a month?

Ms Townson: No, I did not say that.

Mr Grandmaître: Oh, I am sorry.

Ms Townson: I said it may be a few days a month, it may be more often than that. I think that is something the commission would have to work out once the appointments are confirmed. I guess at that point we will have to flesh out the mandate and decide just how often we need to meet and how we will meet and whether there will be hearings or just how, exactly, we will proceed from there.

Mr Grandmaître: That was my next question. Will you be travelling? It says in your objectives that you are

expected, I think, to be meeting constituent groups across the province. Will this be a travelling commission?

Ms Townson: I would not expect it would be travelling all the time, no, but I do not think there is anything to prevent it from travelling. For example, if we wanted to hear from people in northern Ontario, there would be no reason why we could not go up there and hold hearings there. I think at this point the way in which we operate is not clearly established. That would be something for the commission as a whole to decide, probably in consultation with the Treasurer, once we get established and so on. But that input from the various communities, as I said earlier, I would regard as very important and if it means travelling, then I do not see anything to prevent us from doing that.

Mr McLean: Ms Townson, I would like to get some direction, just maybe as chairperson, where you going to head the committee, and I have a couple of questions, one with regard to income tax. As you know, a person on minimum wage pays over $300 taxes a year, and I would like to know if you think that is fair.

Ms Townson: I think one of the things the commission is asked to look at is the impact of the tax system on those at the lower end of the income scale, so that would be something we would be looking at.

Mr McLean: In your own personal opinion, do you think it is fair that a person at minimum wage should be paying income tax?

Ms Townson: In general terms, the impact of the tax system should be minimized on those who least can afford to pay and it should be a progressive system, but just exactly how you make it more equitable is what the commission is charged with looking at.

Mr McLean: A family of four living at the poverty line pay $909 a year income tax. How would you make that more fair?

Ms Townson: There have been things introduced at the federal level, like low-income tax credits and so on, but I cannot say how I would change the whole tax system to make it fair. That is what the commission is asked to look at. It is not my own views that are going to prevail, necessarily. The whole commission will be there looking at that, based on research and based on input from other people in the community.

Mr McLean: What is the salary base for the chair of a committee?

Ms Townson: The salary base? There is no salary. It is a per diem rate, as I understand it, and it is the same per diem rate that anybody on any other commission in Ontario will get.

Mr McLean: There are some in Ontario who are getting over $500 a day.

Ms Townson: I do not think it is that much.

Mr McLean: But you would have some idea of what the going rate is.

Ms Townson: On the pension commission—as I said, I am a member of the pension commission—the commissioners get $195 a day.

Mr McLean: I am sure the per diem for the chairman would be indicated to you when you accepted the nomination.

Ms Townson: The chair of the pension commission, I think, gets about $250 or $300 and I think this is probably in the same range.

Mr McLean: So was that not discussed when you were approached.

Ms Townson: Yes. We were told it would be the same rate as other commissions and I think that is the range.

1040

Mr Sutherland: From your experience, you said the column you write is based on letters you get and you have also done quite a bit of consulting for different companies. Have you noticed a growing sense of frustration with the taxation system in the type of letters you have been receiving and commenting on?

Ms Townson: Yes. Clearly, I think people feel it is very complicated and difficult to understand and in my experience they do not understand how it affects them personally. There is a lot of confusion. I think particularly since new reforms were introduced, it seems to have, for the average person, become even more confusing than it was before.

Mrs MacKinnon: Ms Townson, forgive me. I was a few minutes late coming in, and you may have answered this question; if you did, you will just have to bear with me. I cannot help but notice in your write-up here, your résumé, how much work you have done in regard to the women of the country, and I was just wondering how you feel your experience would work on this commission in regard to the issue surrounding women and fair taxation.

Ms Townson: As you will have seen from the mandate, one of the specific things the commission is asked to look at is the impact of the tax system on women, so that is part of the mandate. Personally, as I think I was saying before you arrived, I am currently working on a tax booklet for the federal government on the impact of the tax system on women, so that is an aspect of the tax system that I personally am concerned about. I am not sure if that answers your question or not.

Mrs MacKinnon: Do you see at some time perhaps, if you are appointed, publishing the same type of booklet provincially for taxes as they affect the women of the province?

Ms Townson: I think that would be a matter for the government to decide, but if there is a research commission for this Fair Tax Commission, as of course there will be, there would be nothing to prevent having a piece of research on that specific aspect, and that presumably would be published. There could be spinoffs from that I guess in terms of a book for general distribution, but that may not be a decision that the commission is to make; that might be a government decision.

The Chair: I would like to ask you a couple of questions as well. Do you have any concerns about the makeup of the committee? I heard concerns yesterday about the fact that there was one representative, I think, from out of

the province. I know looking at it, there is no representative, for example, resident in eastern Ontario, only one from northern Ontario. I happen to represent the east. I guess I have some concern in respect to that.

Another element that you might wish to comment on is the fact that there apparently is only one individual with significant business background on the commission as well. I know we have heard comments in the recent past of concern about the competitive edge of Ontario business and industry and the fact that we may be finding ourselves in a situation where we are not going to have that competitive edge, and part of that is attributed to the tax burden within Canada and within Ontario. So I am just wondering if you think the voice or voices, if you will, on the committee perhaps are going to be strong enough in respect to some of those concerns being expressed, and also the regional representation on the committee.

I know you have not had an awful lot of time to reflect on these things, but maybe you do have some observations.

Ms Townson: I think there was a deliberate attempt to try and choose commission members who represented a wide range of constituencies. There is somebody there who represents large corporations, a former chief executive officer of General Electric, I believe. There is somebody there who represents small business. I think it is always difficult on a commission like this to choose the whole range of representation, both regional and sectoral and so on. What I would say is that where a particular interest is not represented as a commission member, there should be a specific effort by the commission to solicit views from that particular sector, even though that area or that sector is not represented by a commission member.

As I said earlier, what I regard as one of the most important things about this commission is that it will deliberately seek out input from various communities and various sectors and so on. That is a really important part of the mandate, as I see it.

It is not a commission that is going to go away and sort of shut itself up in a room and read all the books and study things without hearing from people in various communities. I think where there is a perceived lack of representation among the commission members themselves, those communities can be brought in through other ways, perhaps. Now you also asked me about the—

The Chair: The regional representation, because my own view, having spent 10 years in the Legislature and living in eastern Ontario in an essentially rural area, and talking to people, for example, in eastern Ontario and then talking to people in the Metro area, they certainly, dealing with many issues, have certainly quite different perspectives and quite different approaches. I see that in this commission something like eight of the appointees are—

Mr Bradley: Eight are from Toronto.

The Chair: Eight are from Toronto, so I think that has to have some impact on the way they are going to approach this in terms of the final decisions and recommendations that are made to cabinet.

Ms Townson: As I said, I think it will be important in those situations for the commission to specifically look for viewpoints from those communities, like the eastern Ontario ones that you mention that are not specifically represented by a commissioner. There would be nothing to prevent the commission, once it gets established and once it starts thinking about the way it is going to operate, from conceivably setting up sort of subcommittees or other groups or something like that where representatives of those communities like the ones you mentioned could be included. I think the commission has to pay particular attention to hearing the viewpoints of people from all over the province in the way that you mentioned.

The Chair: I am curious about your reaction. I know yesterday in the announcements of the transfer payments there was some report in the press that the Treasurer indicated there may clearly be a need for additional taxes in the upcoming budget because of the pressures of the economy in its current state. I am wondering how you would react as chair if, rather than simply additional taxes under the current tax structure, the government proceeded to introduce new taxes, a speculation tax, for example. How would you view that sort of an initiative? Would you view it as undermining your efforts if there were indeed new initiatives in the tax field while you are still out there trying to determine what is best and what is most appropriate for the people of Ontario?

Ms Townson: I do not know. I think it would be unlikely for the Treasurer to introduce some major new tax like that, having just appointed a commission to look at what taxes should be introduced. I would think it would be surprising if he then went ahead and introduced one without waiting for advice from the commission.

The Chair: You think it is highly unlikely.

Ms Townson: I think so, yes.

The Chair: Okay. I am glad to hear that. One other quick comment: I know this is maybe unfortunate because of our time limitations, but I notice in your CV that one of the speeches you gave in 1988 was entitled The Role of Government and the Private Sector in Creating Full Employment. I wonder if you could just sort of capsulize that, especially the role of government in creating what you—I am not sure how you define full employment but try to relate it to your current responsibilities now in the taxing area.

Ms Townson: First of all, the speech that you refer to, I think, was one that I gave in Halifax, and it related to economic development in the Atlantic region, where, as I am sure you know, there are specific, very difficult problems that they have had to deal with in terms of declining industries and so on.

That particular conference at which I was invited to speak was looking at what government could do in the Atlantic region to create employment, whether or not reliance on programs like UI and so on had to be changed and that kind of thing. So the particular speech you refer to was addressing the specific problems of the Atlantic region. In terms of government policy generally in full employment and so on, I think we have to look at the mandate of this commission as a long-term mandate.

Sure, the economy is in a recession at the moment and there are things that happen during a recession that make it very difficult to change policy, but this is a commission that is looking at the tax system generally, not just in terms of what is happening to the economy right now, but how it might be restructured over the longer term to provide a more equitable system that would at the same time generate the revenues that government needs. I think the commission's work has to be looked at on the longer-term basis rather than addressing particular problems that we might have right now because of the recession.

1050

Mr Grandmaître: On income tax, as you know, the federal government collects provincial income tax for us and our income tax is based on a percentage of the federal income tax. Do you not think that if the commission is to look at the global ball of taxation, and you are looking at a fairer way or more equitable way of taxing people, especially on income tax, this will necessarily mean that the federal legislation would have to be amended?

Ms Townson: Are you asking me that?

Mr Grandmaître: Yes. If we agree on this, if we agree that the federal taxation legislation or Income Tax Act will need an amendment or amendments or some modification, do you not think it makes it more difficult for you to reach that conclusion, that this is the way the income tax system in the province of Ontario should work when you know that the federal government has the upper hand on income tax?

Ms Townson: I think in making recommendations on how the tax system should be made more equitable, those kinds of things are clearly things that the commission would have to take into account, but that is not to say that it could not make recommendations—

Mr Grandmaître: Oh no.

Ms Townson: —for change along those lines. After all, Quebec collects its own income tax. It may be that in the future other provinces will follow that route; I do not know, but I think—

Mr Grandmaître: It looks like everybody is going their own way anyhow.

Ms Townson: Who knows at this point? But I think the fact that the federal Income Tax Act would have to be changed is not something that should constrain the kind of advice that the commission might choose to give in the end, although it is clearly something that the commission would have to seriously take into account if it wanted to make that kind of recommendation for change.

Mr McLean: One question on an article here from the Hamilton Spectator of last November: It says that during the election the NDP promised a minimum corporate income tax, a speculation tax and an inheritance tax. since this is being studied now by the committee, Mr Rae denied that the government had backtracked on its election promises. How does that statement coincide with what your committee is going to—

Ms Townson: I am not here to speak for the government and its election promises. I know what we are asked to look at, and those are some of the things that we are asked to look at, corporate taxes, minimum corporate taxes, a wealth tax and so on. Those are on the agenda of items that the Treasurer is asking us to look at.

Mr McLean: Do you believe that of the 10 members, it is right that we should have one from another province on that committee?

Ms Townson: Who is from another province? I am not sure what you are talking about.

Mr McLean: There is one from Hull, Quebec. I am not sure which one it is now, but there is one of the 10.

Ms Townson: I am not aware that there is someone from another province.

Mr McLean: It does not matter whether you are aware of it or not. I asked you if it was fair and reasonable that there should be a member of that committee, one of the 10, from another province.

Ms Townson: I am not aware that there is someone from another province.

Mr McLean: If there was one, do you think it would be fair?

Ms Townson: That is a hypothetical question that I cannot answer. Besides which, I did not make the appointments.

Mr McLean: It is pretty hard to get an answer.

Mr Bradley: Just for clarification, there is a person who lists an address as Hull, Quebec. That is what the member is making reference to. It says 6-208 Des Trembles Boulevard, Hull, Quebec, and it is Susan Giampietri.

Ms Townson: As Mr Grandmaître will know, people who work in Ottawa sometimes live in Hull, but they consider themselves Ontarians.

Mr Bradley: They can get a rebate on the Ontario sales tax, however, and—

Mr Hayes: On a point of order, please, Mr Chair: It is related to this. The statement was made that if they are living in Hull, they should be paying their taxes in Ontario. We have checked this out and those type of people that work in Ontario and live in Hull do pay taxes in both places, we understand.

The Chair: Any additional questions for our witness? Nothing at all? Thank you very much, Ms Townson, for appearing before us and we wish you well.

FIONA NELSON

The Chair: We are a little ahead of schedule, which is good. Our next witness is present, Fiona Nelson. Ms Nelson, are you present?

Ms Nelson: Yes.

The Chair: I'm not sure.

Ms Nelson: Last time I looked.

The Chair: Last time you looked. Great. Would you like to come forward, please? Welcome to the committee. Would you like to make some brief opening comments before we open it up for questions?

Ms Nelson: It might be helpful, because I noticed in the material you got that the gremlins got into the fax

machine and you did not get the second page of my résumé and I did have some with me. I might have enough. In the event that you obviously have not had a chance to get all the pearls on the second page, I could start by filling you in a bit, if that would be useful.

The Chair: The clerk can pick those up and we will circulate them so we will have that much more time for questions and responses.

Ms Nelson: All right.

The Chair: You were a selection for review by the third party, so we will begin the questioning with Mr McLean. In all these we have the 20-minute slots for each caucus.

Mr McLean: On the number of people that have been selected for the committee, there is nobody on the committee that has, from what I have observed, any background in health care delivery, health care institutions, agriculture community or export industry, resource-based industry or manufacturing-based industry. I am wondering if as a committee member, you would feel that with no background such as I have just mentioned, it would be a detriment to that committee.

Ms Nelson: It is interesting you would ask. I have been for many years a member of the Toronto Board of Health, I am on the liaison committee between the Premier's councils on the global economy and on health strategy. I have been active in health planning for many years and it is a matter of great interest to me. I have done a lot of work on both the economics of the health care system and on healthy populations.

I am also a farmer and am very interested in the farming community and in farm economics, both rural farming and urban agriculture. I have been an environmentalist for many years, and I have had a fair amount of study as the president of a national environmental organization in working with the United Nations on the Brundtland report. Those are areas of very keen interest and long-time study for me, so if that is a deficit on the part of the commission, I may help to fill it in a bit.

Mr McLean: It is nice to hear that. I am pleased to hear that, as a matter of fact; I really am.

Mr Stockwell: That is on page 2 on the résumé you just received.

Mr McLean: I did not see it. We did not have that page, I guess.

Ms Nelson: Yes. Technology lets us down now and then.

Mr McLean: That is right.

Ms Nelson: So the second page never arrived; sorry about that.

Mr McLean: I would like to the into the tax area a little bit. It has been indicated that there should be a minimum tax, that everybody should pay tax, minimum, whether it is a corporation or private or whatever. Do you believe that would be something that would be fair, that type of a tax?

Ms Nelson: I do not know yet. I know there is staff attached to the commission and I assume that the research they will turn up will help us to come to a conclusion one way or the other on that subject. I really am not at all sure at this stage whether that would be a useful thing or whether the mechanics of attempting to collect that would be a bigger burden than it was worth. I just do not know.

Mr McLean: If a corporation had a gross revenue of $250,000, do you feel that corporation should pay tax?

Ms Nelson: I think there are a few variables in that one that I do not know, so it would be very difficult for me to say what kind of business they were in and what other extenuating circumstances or externalities there were to take into account.

1100

Mr McLean: But the Treasurer very strongly indicated that all corporations and business should pay tax, and he was looking at an 8% minimum.

Ms Nelson: But my understanding is that the commission is at arm's length to the Treasurer, so presumably the Treasurer's opinion will be one of many we consider.

Mr McLean: I appreciate that. You said you are involved in urban agriculture.

Ms Nelson: Also rural. I have a farm as well.

Mr McLean: Where is your farm located?

Ms Nelson: Near Brighton.

Mr McLean: What type of a farm is it?

Ms Nelson: Minimal. It was worked-out corn land. My son is living there and he has been restoring the soil, because as you know if you grow corn for any length of time you ruin the soil. So he is restoring the soil and trying to get it back into shape. He has been growing clover and oats and plowing it in and he has sort of a small mixed farm. He sort of supports his family there at the moment. I do not know if we will get ever beyond that level.

Mr McLean: I do not suppose he would be paying income tax, would he?

Ms Nelson: I never asked him.

Mr McLean: It would be a good question. You have an in to find out about agriculture; I can see that.

Ms Nelson: Yes, I suppose that is true. I know I am pouring money into it like a bottomless pit.

Mr Stockwell: Then it is official; you are a farmer.

Mr McLean: I own a dairy farm, so I realize a little what farmers have to go through and it bothers me when I hear that the Treasurer wants to put a minimum 8% tax on them. I know many farmers who are going broke and out of business and I just hope you will look into that aspect and I am glad to hear that you are.

Ms Nelson: I have not noticed too many poor dairy farmers, however. I think quotas are worth quite a bit.

Mr McLean: The fact is that I have worked off the farm all of my life, so I pour my money into it too.

Ms Nelson: Yes, I am sure you do.

The Chair: Mr Stockwell, do you have any questions?

Mr Stockwell: Not at this point.

The Chair: All right. We will move on to the Liberal caucus. Any questions from the members of the Liberal caucus? Oh, I am sorry, it is the government caucus.

Mr Grandmaître: We did have an election, Mr Chairman.

The Chair: Mr Wiseman, do you have any questions?

Mr Wiseman: Yes. I would like to pursue some of the items in your curriculum, if you would not mind. I notice that you have been the chair of a number of committees. Could you perhaps give us a list of what those chairs were.

Ms Nelson: Oh my. How far back?

Mr Wiseman: Not terribly, because we have only got an hour.

Ms Nelson: I have chaired the Toronto board several times, most recently last year. I have not chaired too many things at the school board lately because in the last two or three years the provincial government has been keeping me fairly busy. I was chair of the education committee on the Premier's council on the global economy. I have also been doing a fair amount of work at the Ministry of Health on the AIDS advisory committee. I have been working a lot in AIDS.

I am on the Learning Programs Advisory Council of the Ministry of Education and I have been for several years, and I have also been quite active as president of the Ontario School Trustees' Council, and in provincial and federal education politics.

Most of the chairing and most of the work I have been doing has in fact been outside the school board. I have been active on a lot of environmental work, not particularly chairing things except for the environmental organization, the non-governmental voluntary organization that I have been working on with the United Nations. So I have been doing work that has not necessarily been called chairing. That is not very useful to you. Do you have a more specific question?

Mr Wiseman: I just want to pursue that for a moment. With your involvement with the educational system, as you know, the funding for education is a very serious question in a lot of people's minds. Since you have been involved with it from a taxation point of view, are there any areas that you would particularly like to examine as a committee or if you had input into those areas?

Ms Nelson: Certainly the significant off-loading from the federal government to the provincial, and the provincial to the local area, has produced a bit of a crunch, as you know, with property taxes. I am obviously most familiar with the city of Toronto, but because I have been working at the provincial level in the trustee organizations, I am aware that there have been problems all over the province, that the whole funding of education needs quite significant work. I think we need to do a fair amount of research and I am hoping the staff of the commission is going to be able to undertake that kind of research so we can look at a more appropriate way to fund some of these things that we think are absolutely essential.

For example, it has been very clear over the past few years that government policy has been moving towards the inclusion of significant portions of child care under the aegis of the school system. At the moment, there are legislative problems, clashes between various ministries, that I hope will be overcome. As well, the building of child care facilities at schools is a significant expense that has to be looked at, and the running of child care and the whole pay equity issue around child care workers are all drains on municipal taxes at the moment. These are all areas I hope we have a good look at.

Mr Hayes: Ms Nelson, I am pleased to see we do have someone on this tax commission who does have some experience in the agricultural and rural area. I think that would be a real asset. I see you are also a member of the Ontario Federation of Agriculture.

Ms Nelson: Yes.

Mr Hayes: Do you have any suggestions or ideas on some of the concerns dealing with farmers? One of the things I am sure members here are aware of is that they certainly have been losing money for years. You can certainly relate to that. Do you feel they have been treated fairly in the past as far as taxes are concerned?

Ms Nelson: I think there have been some ways in which we have been remarkably shortsighted. We have put a lot of money into subsidies for tile drainage, which of course is ruining the water table. I think we need to look at some of the ways in which we have inducements and encouragements as well as things that discourage people.

It is very clear that vast amounts of the wealth, if you like, of farmers is tied up in their land, yet if we allow that land to go for land speculation we are ruining the agricultural base of this province. At the moment, I think this whole province is addicted to California when we could be far more self-sufficient in food. It seems to me that our land use policy and agricultural policy and food policy need to be brought more closely into alignment. I am not sure if the tax policy is the way to do that, but it is certainly an area of interest to me and I would love to see us do some real research on how we protect the equity of farmers and at the same time do not allow all our best land to go under concrete. That is going to be a real toughy, and I suspect there is going to have to be some tax policy developed there. I do not know what it is going to be, though.

Mr Sola: In answer to Mr McLean's question, you said you were approaching the minimum tax with an open mind. For the record, because we asked that of the chair, would you indicate whether you have a political affiliation?

Ms Nelson: Oh, yes. I sort of assumed by now everyone knew what it was. I am a New Democrat.

Mr Sola: That is why I am saying for the record. It seems to me strange, because the same question was posed to Ms Townson and she answered as well that she was approaching the minimum tax with an open mind. Yet it has been NDP policy for ages, a recommendation that especially a minimum corporate tax be included in the taxation base. Now, if you are an active member of a party that has been proposing such a policy for a long time, can you really approach that question in an unbiased fashion?

Ms Nelson: Yes. The NDP is the New Democratic Party, not the new dictatorship party. We do not all have to toe a line. Party policy is developed by the membership, and it is not the same since the Regina Manifesto. There are a great many ways in which party policy is developed and altered. I have no idea whether that will show as the best way to go. Clearly you have to do a fair amount of research and development to find out what is the most appropriate thing.

1110

It is obvious in a flourishing society that if people are employed and are capable of doing it they should all pay tax, but there also have to be a variety of ways of protecting people. For example, right now the tremendous shortfall in revenues in the municipalities because of the decline in the economy means that a lot of businesses that might have paid a quite significant tax last year will not this year because they will not have a sufficient income to make that possible. I would not ever make a blanket statement like that without an enormous number of caveats to make sure that people are not being unjustly treated.

Mr Sola: But I find this statement a little hard to swallow when you are actively propagating a policy that specifically stated, "Yes, a minimum corporate tax." You cannot say that you have to approach that with caveats. You were not stating any caveats during this last campaign or, say, for the last 20 years—I forget when it first popped up. If you are an active party member, and knowing your background I know you are a committed party member, I cannot accept that you would not accept the party policy as gospel.

Ms Nelson: I am not a fundamentalist. I think I can embrace this party because the vast majority of its policies are things I agree with. That does not mean I agree with the literal interpretation of every word in the party policy. Also, it is important to me to remember that the commission is at arm's length to the government, so whatever the party policy is may not necessarily be the recommendations of the commission when we are finished with our investigations. At the same time, the Treasurer may not accept what we come up with. I think there are an enormous number of steps before party policy comes into the commission or the commission's work bumps up against the party policy.

I have talked to Liberals and Conservatives who are not 100% wedded to all their party policy, but it is the best of a bad lot to some of them. I am not able to say that every word of the New Democratic Party's policy is something I recite before I go to bed every night and that I subscribe to. I do not know if that is reassuring to you or not, but that is certainly my position.

Mr Sola: I just hope your words do not come back to haunt you when your recommendations come up.

Ms Nelson: It would not be the first time.

Mr Stockwell: Did you approach the Treasurer or Treasury officials to be appointed or did they approach you?

Ms Nelson: They approached me. I was quite surprised.

Mr Stockwell: You were?

Ms Nelson: Yes.

Mr Stockwell: So this is sort of hand-picked, in essence.

Ms Nelson: I think you would have to ask the Treasurer that. I do not know how they arrived at the list.

Mr Stockwell: Do you know the other members on the tax commission?

Ms Nelson: The only one I know is Mr Blundell, the past president of General Electric, because we were on the Premier's council together.

Mr Stockwell: So that is the only other member you know.

Ms Nelson: Yes.

Mr Stockwell: The questions previous surrounded party affiliation, so I can assume that you worked or contributed this past election to the cause?

Ms Nelson: In the provincial election?

Mr Stockwell: Yes.

Ms Nelson: Oh, yes. I gave some money to a couple of candidates.

Mr Stockwell: Okay. The other questions I have revolve around your beliefs or agreements with the NDP and its ideas for minimum corporate tax and so on. What about wealth tax? Do you have any firm commitments or beliefs when it comes to wealth tax?

Ms Nelson: I am not an expert on taxation. The only belief I have around tax is that tax is intended to redistribute the wealth of society for the benefit of society, and how one does that I suspect has a lot to do with one's ideology. It would make sense to take money from people who have it rather than people who do not. That is the only comment I really have on that.

Mr Stockwell: Therefore, you really did not understand the NDP position on the minimum corporate tax and their tax position and so on previous to being approached to sit on this commission. Are you suggesting you did not understand it or that you understood it but did not agree, or what?

Ms Nelson: I would say I understood it, and to the extent that it was a political statement rather than a worked-out economic policy it made sense. As you know, any political platform is very bare bones; in fact, until one actually gets into the position of implementing it, it probably does not get past the bare-bones stage. So my assumption is that since this is called a Fair Tax Commission, it is going to look at the fairest way to provide equity in the province.

Mr Stockwell: "Fair" is a purely subjective word, would you not agree?

Ms Nelson: No, I think there are some fairly good definitions of "equity."

Mr Stockwell: Definitions of "fair"?

Ms Nelson: Yes.

Mr Stockwell: I see. Have you read the tax commission outline issued by the ruling party? It says, "Specific

Issues to be Examined by the Commission." I do not know if you received this.

Ms Nelson: Yes.

Mr Stockwell: I asked this of the previous person that was in here, because I find them slightly slanted, slightly bent. It is assuming certain things that I thought you were going to go and find out. Maybe you can help me. "(a) What changes to or restructuring of the existing tax-delivered assistance would increase the fairness of the overall tax burden on low-income individuals and families?" It seems to me that they are making the assumption that it is unfair—I guess "unfair" is the best word—that "the existing tax-delivered assistance programs" are unfair on "the overall tax burden of low-income individuals and families." Would you agree with that?

Ms Nelson: I think so. It seems to me that the existence of food banks at the moment tells us that there is something very, very wrong with our distribution system in this society. I am particularly interested in the welfare of children, and it is interesting to me that in the past 10 years the largest group of the poor are children and single mothers. Clearly, we must do something about that, since in my opinion children are the responsibility of the society as a whole.

Mr Stockwell: I am not going to make the arguments. I just was curious if you were in agreement with that.

Ms Nelson: Yes, sure.

Mr Stockwell: Do you agree with, "What viable options does Ontario have for introducing a wealth tax to improve tax equity?" Do you agree that there is in fact a need to introduce some kind of option in wealth tax, because the present system is not equitable?

Ms Nelson: I think in that question the operative word is "viable." You have to find a mechanism, and I suspect that is going to be part of our job. We may have perceptions about certain things being fair or unfair and not be able to develop the mechanisms to do anything about it.

Mr Stockwell: I see what you are saying. You are suggesting that it may well in fact be unfair or inequitable, but there may not be a viable option out there for you to introduce that could—

Ms Nelson: Yes.

Mr Stockwell: But you substantially agree with that statement, though.

Ms Nelson: It is a question. My answer to the question is that I do not know yet.

Mr Stockwell: It is kind of an interesting question. It definitely is a question that is leading to a conclusion.

Ms Nelson: Sure.

Mr Stockwell: The conclusion is, if you take the last part of it, that we have to introduce wealth taxes to improve tax equity, and what we are looking for is not whether that is true but what viable option is available. Would you not agree?

Ms Nelson: Could be, yes. I think we have a lot of work to do on that one.

Mr Stockwell: Yes, so do I. "(e) What type of corporate minimum tax would be most effective in improving the fairness of the tax system by ensuring that all profitable corporations pay a fair share of the corporate tax burden?" After your answers to the previous question, you were uncertain that there was a need for corporate minimum tax, or in fact if it was fair or not. It could be instituted as fair.

Ms Nelson: But the question is what type?

Mr Stockwell: My question, then, is: Are we now examining what type of corporate minimum tax? Are we therefore making that assumption that it is not whether we need a minimum corporate tax, it is now just what type of corporate minimum tax we need?

Ms Nelson: I have heard people in other political situations claim that there is at the moment a minimum corporate tax. It does however have, to the view of the ordinary citizen, some rather interesting wiggles to it, and I suspect that the fact this question is here means we need to have a look at exactly what is there at the moment in the corporate tax system and how do we maybe take out some of the wiggles. I do not know. I have not seen the research yet.

Mr Stockwell: Okay, I understand. So you are not certain on (e), because you have not seen the research, and when you get the research you will have a more informed view. I can appreciate that.

Ms Nelson: I do not think they would have needed a commission if we already had our minds made up.

Mr Stockwell: Gee, yes. I would agree with you. Thanks for that.

Mr Grandmaître: We are trying to establish the time this commission should sit: two years, three years. What is your understanding? Will you be sitting for three years, two years?

1120

Ms Nelson: I would like to sit until the end of the commission's work, if I do not get hit by a bus first. I do not know how long it is going to take. I would love to do it in six months and get on with whatever comes out of the commission. My understanding from having been in local government for the past 21 years is that it is a mare's nest and it is probably going to take us a while to figure out just where we are.

Mr Grandmaître: Especially in education. They last for ever.

Ms Nelson: Well, all the taxes. Those of us who are concerned about the environment are extremely concerned about the fact that the public in general pays for environmental cleanup and certain people who made the mess can walk away from it. Presumably we need to do some work on the tax system to make sure that responsibility stays with the people who are causing the trouble. Certainly Mr Bradley will remember some arguments that were made at the environmental round table along these lines, so this is not a new idea. But to do that, you cannot just lay it on top of the existing structure. That is why I presume it is going to take us a while just to get the complete picture of what the tax structure is in this province before we know where we can do something.

Mr Grandmaître: Do you not agree with me that if you were to sit for two, three years people will lose interest? Not only will people lose interest, but you will lose interest when it drags on. I was going to use Meech Lake as an example.

Ms Nelson: But people did not actually lose interest in that, as I recollect.

Mr Grandmaître: They had three years and it was a mess. I just want to remind you that I do not think you people should wait three years before action is—

Ms Nelson: I quite agree. My hope is that during the life of the commission we will find ways of keeping public interest alive. Presumably the research and work we are doing, some of it will be publishable during the life of the commission, and that will help to keep things going. Also, we are not going to deal with the whole waterfront all the time. I presume we will deal with it in pieces after we get the whole picture. I do not know. I am not the chair, I am not the research staff or anybody else, but it would seem to me that when you are cleaning house, you do not disrupt every room in the house. You make yourself a work plan and you work from room to room, and I would assume that is the same way we would attack this.

Mr McLean: How many rooms in the house?

Ms Nelson: That is what we have to find out first, is it not?

Mr Grandmaître: Take stock.

Mr Stockwell: I just hope they do not find my room.

Ms Nelson: Your mother has not been in lately, is that it?

Mr Stockwell: Not for a long time.

Mr Bradley: I notice in your résumé that you are a very busy person, and I know of your active interest in a number of different fields. I will ask this on a personal basis: Do you feel, with the criteria set down for the commission, that it is going to leave you, with your busy schedule, sufficient time to be able to make the contribution you would like to make to the commission?

Ms Nelson: Actually, that has never been a serious problem. If you set priorities, you can usually get stuff done. I am assuming that the secretariat and the staff of the commission will be preparing material for us in such a way that it makes the job manageable. All the people on the commission, from reading their résumés, have a fair amount on their plate, so my assumption is that we will work at it, because it is important, as fast as we can.

The thing is, you can only proceed so fast before a certain amount of work has to be done to catch up with you, and if you are hearing from people, stuff has to be analysed, it has to be put together for you. So I presume there is going to be a fair amount of staff work and therefore the commission will slate its meetings in such a way as to not drive the staff around the bend.

By the same token, I think all of us, because we have a fair number of involvements, will be able to bring fairly useful perspectives to the work. I do not see that as a detriment. I also think anybody who has been in public life at all for any length of time has learned to make priority lists and do things that way. They do not last long if they do not.

Mr Bradley: There is a fear in parts of the province of Ontario, segments of the province of Ontario, where people believe the government has its mind made up and the commission is simply appointed to carry out what the government wants and to legitimize the taxation policies of the New Democratic Party. What would your reaction be to that? I have heard part of that. What would your reaction be to that kind of fear that is out there?

Ms Nelson: I think it is very natural. There is always fear of the unknown, and this party is in power for the first time in this province, so I suspect there is the fear and curiosity thing working quite strongly. But my recollection of various commissions, both at the provincial and federal level in the past, is that they have often contained surprises for the government that appointed them. I doubt if there would be a difference here.

Mr Bradley: Your views are well known on a number of subjects. You have never been one who would not express those views, and I say that in a positive sense rather than a negative sense. I hope you do not consider this an insulting question; I know you will not when you hear it. Do you believe that the views you hold are such that it is going to be difficult to come to any conclusions other than those you already have on taxation matters in the province?

Ms Nelson: The thing is that my views on taxation are those of a taxpayer, and so my assumption is that I will be getting a lot of information from the staff, from the hearings or submissions or however we collect our opinions and data, that will give me some idea perhaps how to carry out some of the ideas I hold near and dear. I may in fact have to change the odd one; it has been known to happen before. I mean, if you look at the title, it is "fair tax," and I must admit I am more of an expert on equity than I am on taxes. I will see what comes of that. I have nine other commissioners to persuade before anybody else of whatever position I hold, so I suspect the meetings are going to be very interesting.

Mr Bradley: When I look at the makeup, some may not take too much persuading but others will, and I know you approach things with an open mind. I have watched you in the field of education. I know you have approached things with an open mind and sometimes have been at variance with some others who, one would assume, would have similar views to yours. You have been at variance with those from time to time.

I have a question about—because you have served on a number of agencies, boards and commissions over the years, some elected positions—your view on the fact that 8 of the people out of the 10 either reside in Metropolitan Toronto or work in Metropolitan Toronto. I recognize that geography should not be the number one criterion, but do you see a danger there that perhaps the commission will not reflect as well as it might the full province of Ontario and may be seen as a Toronto tax commission?

Ms Nelson: Certainly there might be a danger of that, but the fact that there is a staff that is supposed to do

research for us, the fact that we are supposed to design a tax policy for the province, the fact that we are going to certainly, in one way or another, be hearing from the province, would lead me to suspect that we would reflect the needs of the whole province. After all, since this province has a manufacturing base and a resource base and an agricultural base, and we have to figure out how best to make that work for the economy of the province, we have clearly got to hear from all those bases. And the resource base is largely in the north, the agricultural base is almost entirely outside of Metropolitan Toronto, and in fact a lot of the manufacturing is, so I do not see how we can possibly deal with a decent tax policy without looking at the whole province.

Mr Bradley: My final question is, knowing that you are always willing to express your views on these matters, how did you react to yesterday's transfer payments?

Ms Nelson: Not well.

Mr Bradley: I think you just got my vote on this.

Ms Nelson: I understand the constraints that were on the Treasurer, but every time we have heard the transfer news in the past 20 years, it has not been good news to the education sector, and you know, I am hopeful that the commission may set about to remedy some of that.

1130

Mr McLean: That is a subjective question I wanted to follow up on. You have been on the school board for many years and your party has promised 60% funding from the province. You are now on the tax commission. How do you deem to go about doing that?

Ms Nelson: Oh, I do not know. First, you have to decide 60% of what, and then you start talking about local autonomy. You know, those are huge questions. The fact that almost every school board in the province is over the ceilings that were set by the previous government means that they have had to raise local rates whether they had any local base or not. So going back to an earlier answer, I think to one of Mr Stockwell's questions, what one says in an election campaign is the bare bones and the doing of it is going to be quite interesting, and whether the tax commission can assist the government to meet that promise or not, I do not know. It is a massive question and it is a huge amount of money. If you look at the local contribution to education and the provincial contribution, you are talking about nearly $10 billion a year, and that is a big chunk of the provincial revenue, so we have to look very carefully at how we go about finding what the 60% is and also what the 100% is.

Mr McLean: There are 10 members appointed to this commission. Would you be disappointed if one of them was appointed from outside of Ontario?

Ms Nelson: It depends what you mean by outside of it. If they have some relationship to the province, then presumably they have something to offer.

Mr McLean: Well, not living in Ontario.

Ms Nelson: Are you referring to the person who lives in Hull?

Mr McLean: Who lives in Hull, the address is Hull.

Ms Nelson: Yes, I tend to think of Hull as being part of Ontario, actually, because that is where an enormous amount of the federal government stuff is.

Mr Bradley: That ought to hit the wires.

Ms Nelson: Yes, well, I do not think that is a biggie, really.

Mr McLean: You do not?

Ms Nelson: No.

Mr McLean: Do you think that out of 10 commissioners, they could not find 10 in the province of Ontario?

Ms Nelson: Well, I think it is awfully easy to get sidetracked on that kind of thing.

Mr McLean: It appears that the whole tax stance of the government is the inside track, from what I gather, because the promise of the 60% is so important that I cannot believe that nobody knows how it is going to solve that problem now that it is in power.

Ms Nelson: I doubt if that is unique to this government. I think there are all kinds of things that are dealt with in an election campaign that do come home to roost one way or another when people get into power, and they have to find ways of dealing with it or saying why they are not dealing with it, so I do not think it is going to go away.

Mr McLean: You would probably agree with me that that is the problem with politics and politicians today, the fact that they make these commitments and do not fulfil them.

Ms Nelson: Sometimes they do not fulfil them and sometimes they cannot fulfil them and sometimes information comes up that tells them it is better not to and to do something else. I would hate to think that people would go ahead and do something that they had promised to do on the basis of insufficient information and then when they got sufficient information did not change their minds.

Mr McLean: Mr Laughren made the statements very clearly of all these corporations that do not pay tax. He had them all listed, several of them. You are saying there is going to be a new tax system and they still may not have to pay tax.

Ms Nelson: I am not saying they still will not to have to pay tax. I am saying devising the mechanism may be rather an interesting exercise because I think if you are going to call something a Fair Tax Commission, you had better have the appearance, at least, of fairness, if not the structure of fairness. I think that is what we are supposed to be doing, in fact trying to make it fair, but that may be very difficult to do. I do not know.

Mr McLean: It would be better if we just called it a tax commission.

Ms Nelson: I think it is useful to have that word "fair" in there because it keeps reminding us what our job is.

Mr Grandmaître: Perception.

Mr Stockwell: I have listened to your answers and I think some of them are very good. In fact, being the open-minded, free-thinking individual that I am, I have even accepted some of these—

Mr Bradley: He says with a smile on his face.

Mr Stockwell: —I even accepted some of these responses that have, I think, stretched my interpretation of where I felt you stood previous to coming into this room. But one I have great difficulty with is the 60% funding. Now, when did you become confused on what "60% of what" was? Because in my past readings in the newspapers and so on of your very eloquent and definitive position on that, you were very clear what 60% was: 60% of operating money. Now today, much to my surprise, we seem to have a definition difficulty.

Ms Nelson: Oh, well, I think that developed over the last 20 years, because the Minister of Education, when he brought down the ceilings in 1971, had a definition of what the ceilings applied to which was not the same as our definition, and in fact we had to do a lot of very frantic work to get him to see that things like special education and that sort of thing did not fall within the ceilings that were applied. Then the teachers' pension plan was added to the what and then capital expenditures were added to the what, so I am saying that over the years the what has expanded or contracted, so much so that the very first thing we have to do is say, "60% of what?"

Mr Stockwell: With all due respect, you never seemed to have a difficulty when the Liberals and Conservatives were in power excluding pensions and excluding capital programs and taking 60% of operating. Today, you seem to have difficulty determining—

Ms Nelson: No, I do not have any difficulty with that.

Mr Stockwell: Oh, then give me your interpretation of the 60%.

Ms Nelson: I am saying I think the commission is going to have to work very hard on that one. There has been a variety of changes over the years. Bill 30, which produced the extension of funding to the separate schools, has produced multimillion-dollar capital expenditures that no one envisioned. The extension of child care into the schools has produced capital expenditures that no one envisioned. All kinds of program changes in the curriculum area over the years have lowered the class sizes and expanded the size of the space. The Partners in Action program has made a requirement for much expanded libraries in the schools. That is both an operating and a capital expenditure. You cannot, however, separate the one from the other. And the business of superannuation and the pensions was quite recently added. So this never used to be part of our calculations; that was part of the provincial government's calculations. Now with the downloading of a lot of these things, it has become part of ours, so when you say "operating," unfortunately the contributions to superannuation, all those things, now are part of our annual expenditures and we need to clarify very clearly what the 60% is and what the 100% is.

If it were simply the regular operating year by year of the schools, the teachers' salaries, the books and that sort of thing, that is fine. If it includes all those other things, then we have a very different job on our hands.

The Chair: This is your last question.

Mr Stockwell: Last question. Maybe it is a two-parter, Mr Chairman. Gee, the next trustee I run into, I am going to mention that you are really not clear on what the 60% is, because they thought you were very clear and your board was clear and all the boards in Metropolitan Toronto were very clear. In fact, I am shocked to hear you are not.

Ms Nelson: My answer actually was that my intention was that the provincial government was not clear, because it is the one that keeps changing what the 100% is. We have no power to do that as creatures of the provincial government.

Mr Stockwell: Then the question stands, and may be in written form later, which you did not answer: What is your interpretation of the 60%? The final point is, do you not think, before your party made this promise last election, that it should have gotten the interpretation down?

Ms Nelson: I think when that party policy was developed, perhaps they did have it in mind and things changed over the past few years. I am not at all sure. It would seem to me that the Fair Tax Commission has an enormous job on its hands if it is going to make recommendations in this area in defining exactly what it is talking about. I think we have been given a mandate that is fairly open to do that, first to make our definitions and then to make our recommendations, so I think that is yet to come.

The Chair: Anything further? The two caucuses have some time left. I guess not. We thank you very much, Ms Nelson, for appearing before us and wish you good luck with your new responsibilities and with your farm cash flow problems.

Ms Nelson: Yes, that is an old trouble. Thank you very much.

The Chair: Members, that wraps it up for this morning. As you can see by your agenda, at 2 o'clock this afternoon we are going to be meeting with the Preservation of Agricultural Lands Society and that is an interest group that has some contributions to make in respect of the Ontario Municipal Board.

The committee recessed at 1140.

AFTERNOON SITTING

The committee resumed at 1404.

AGENCY REVIEW

Resuming consideration of the operations of certain agencies, boards and commissions.

ONTARIO MUNICIPAL BOARD

The Chair: Can we come to order, please.

PRESERVATION OF AGRICULTURAL LANDS SOCIETY

The Chair: The first witness this afternoon is from the Preservation of Agricultural Lands Society to discuss that organization's concerns in respect to the Ontario Municipal Board and offer observations and answer questions from the committee members. Representing the society is Gracia Janes. Mrs Janes, would you like to come forward, please. Welcome to the committee.

Mrs Janes: Thank you, I am honoured to be here.

The Chair: Is it your intention to have a brief opening statement?

Mrs Janes: Just a little bit to explain what PALS is so that you know.

The Chair: All right, fine. How long do you think it will be?

Mrs Janes: Two minutes for that, and then I would like to read through my brief to put the particular emphasis I may wish to put on it.

The Chair: You wish to read your complete brief into the record?

Mrs Janes: If you do not mind, yes. It should not take more than five minutes at the most.

The Chair: Fine. Please proceed.

Mrs Janes: I would like to explain that PALS is an urban group mainly. There are some farmers; our advisers are farmers. We represent close to 1,000 people across the country with the bulk of the membership being between here and Niagara, and we have been in operation informally since 1976 and formally since 1977 as an incorporated body.

The Preservation of Agricultural Lands Society thanks the committee for this opportunity to address the issue of possible changes to the composition and activities of the Ontario Municipal Board.

It is appropriate that our group should speak to this subject, since with the exception of municipalities and perhaps some individuals or Canadian Environmental Law Association lawyers, PALS has had more occasions than most groups to appear before panels of the board, to advise others in similar circumstances or to join with other groups as representatives before the board or joint boards.

Our experience has been varied. In subject matter we have dealt with such issues as severance appeals, zoning bylaws, official plan amendments, soil stripping, aggregate mining applications and other issues. A current appeal, as a member of the Ontario Toxic Waste Research Coalition, involves an appeal to a joint board re the Ontario Waste Management Corp siting of a toxic waste facility on prime farm lands in West Lincoln.

As an incorporated body, a non-profit, voluntary group with no paid staff,we have brought our concerns before the board in various ways. Depending on our resources, we have had a lawyer before the board for as long as a year in the case of the Niagara hearings and as little as a day or two during severance hearings.

During major hearings, we have presented substantial witnesses but have rarely had enough funds to pay more than a token honorarium. We have also used cross-examination of the proponents' witnesses. In some cases we have had to resort to presenting our case solely through cross-examination due to the lack of funds and time constraints. Most recently, we have used a layperson to present our case, acting in place of a lawyer.

The results of our endeavours have ranged from extremely successful to extraordinarily difficult and discouraging. We have been praised by the OMB as defending the land in the absence of any other body, including the provincial government, and we have been vilified as being close to contempt of the process. We have had the dubious distinction of being declared frivolous by the Minister of Municipal Affairs and denied a hearing. We were later vindicated by the Ombudsman, who agreed that the minister did not prove we were frivolous but merely argued the case for the municipality.

A unique but also dubious distinction of being assessed costs by the board was lifted from our record by cabinet. Our case was not only taken up successfully by our lawyer, who pointed to the expertise of our witnesses, but by many groups across the province, spearheaded by CELA. The principles expressed in this case led to a provincial study of the unique micro-climate of the Fonthill Kame.

We have been helped by board chairmen to bring out the arguments re the need to have consideration of Food Land Guidelines and we have been hindered by the allowance of harassment by opposition lawyers.

So you can see that we have had considerable experience, both positive and negative, before the board. I would note that our positive experiences have not all related to cases won and our negative experiences to those that we lost. It has been a mixed bag.

Thus, we bring today what we feel is as accurate an opinion as possible, hopefully untinged by either wins or losses at the board. With this in mind, we raise the following issues.

Intervenor funding: Our major obstacle, and obviously that of most volunteer non-profit groups and individuals, has been inadequate funding. It seems inequitable that there is the possibility of such funding for environmental assessment hearings and joint board hearings with an environmental component, yet hearings such as ours, which indeed have profound environmental implications and are fought for the public good, have no such mechanisms.

In most of the cases we pursue, the land base, a non-renewable resource, is potentially at risk for lack of an adequate defence. The opposite case is usually put forward by those who have considerable funds, often high-priced lawyers and sometimes a pecuniary interest. We would argue that fairness, environmental concern and equity should be pursued through intervenor funds.

The legislation governing the OMB should be amended so that funds could be available where the case is being made by groups or individuals who have no pecuniary interest and who are arguing for the public good. Of particular importance are cases of major public interest, where non-renewable resources or environments are involved. The role of the board as a public watchdog would thus be enhanced and the perception that the board exists to further the interests of politicians, via municipal councils, and developers would be dissipated.

1410

Board composition: In our experience, board members, perhaps due to the preponderance of lawyers, urban planners, architects and other urban professionals, have had various levels of expertise related to our major defence mechanisms for food lands, the Food Land Guidelines. We have actually had a chairman admit to being unrepentantly ignorant of the guidelines and, at the other extreme, those who measured every issue raised on this policy's merit, as was the case in our Niagara hearing. While in the absence of intervenor expertise a board may subpoena witnesses on its own, we have not seen this happen.

The issue of food lands is essentially an environmental one, which requires some considerable understanding and breadth of knowledge, and environmental commitment, regarding interrelated environmental matters: storm-water runoff on farm lands, the impacts of illegal uses and the impacts of mining on the ground water. We recommend that there be many board members with a diversity of environmental experience, voluntary, professional and academic, to deal with such issues. As well, all board members should be given relevant training.

Board behaviour—Standard of conduct: The board is a people's board, a public watchdog. How it treats those of the public who come before it is very important. Once again, our experience has been varied.

When on our own, without a lawyer, we have experienced quite courteous treatment, particularly when attending sessions re scheduling or appeal matters in Toronto. However, on occasion when represented by legal counsel, the treatment was close to being cruel and unusual punishment. Our lawyer, we presume, was supposed to defend us but was loath to offend a board member. Our perception was not one of fairness or unbiased behaviour on behalf of a board member.

There should be a mechanism to address this issue. It is difficult enough to come before a board, even for those who have done it many times. One is always nervous before the battery of lawyers and planners. The board's professional manner is very important as far as the public perception of fairness goes. There should be no flashes of temper and unprofessional manner where the public case is being put forward to the best of the intervenor's ability, within often strained budgets and with voluntary witnesses.

To highlight the most unacceptable incident in my experience, I would relate that a very gentle archdeacon of the Anglican church, who had in the British system an additional task of being sheriff of an enormous jurisdiction, was heard to say: "This is not the Inquisition. Surely the board is here to inquire only." Ironically, this hearing culminated in costs being levied against PALS, as previously mentioned, a lifting by cabinet and eventually a review of the issue of costs by the board.

We would recommend a code of conduct and some separate avenue of appeal for injured parties that would be separate from the Attorney General. Most people do not realize they can even go to the Attorney General, but I think it has to be separate from that kind of formal process, quite distinct from the outcome of the case before the board. The knowledge that there is such an avenue for review, other than the Attorney General and perhaps board peers, would go some way to ameliorating these breaches in common civility.

Board decisions: A serious problem with board decisions, even on major land issues, is the lack of consistency, particularly in its interpretation of government policy. There is no firm avenue of precedents, no precedent-setting cases. This has led to a spotty track record in land preservation. While some board members, perhaps with less environmental concern or poor knowledge of the Food Land Guidelines, allowed the highest uses to be urban, others firmly defended food lands.

It has also allowed important decisions to fade as time passes. For example, a 1960s Niagara-on-the-Lake decision allowed the town to preserve a large area for farming. The board ruled that if this did not happen, St Catharines should have the land for urban uses. The land is now industrial and a more recent board decision in 1979-80 paid scant attention to the prior ruling. In turn, the farther away we get from that significant Niagara hearing, the more it fades from view. As well, even within a short period of time, in the same municipality decisions vary. While a municipality is expected to be consistent in its planning, the board is not expected to be consistent.

We realize that the adversarial nature of the process is partly to blame, impacted heavily by high-priced planners and lawyers. But, that aside, certain changes to the nature of the board decision should be made.

We recommend that the board be required to take past decisions into account. Also, certain environmentally positive landmark cases should be used as precedent-setting. As well, the board should be obliged to explore certain areas of inquiry related to the government policy, either through the appellant or through expert ministry witnesses called by the board. These should cover the basics of environmental land protection. To do otherwise is to make a decision in an environmental vacuum.

The adversarial nature of the hearing: The adversarial nature of the process is particularly detrimental at hearings of an environmental nature, where the opponents are arguing in the public good and have no pecuniary interest. These effects are intensified by the fact that the public

usually has one lawyer or none, while the opposition often is represented by planners and lawyers, often bolstered by planners and lawyers from two levels of government. If there is a region involved, that is how it goes. In the Niagara urban boundary hearings, there were by some counts 35 lawyers and innumerable planners against one planner and one lawyer for PALS.

The board hearing is not a court hearing, yet the aggressive style of the lawyers very much resembles the prosecution found in court. Rather than attempt to lay all the environmental planning facts on the table for calm consideration and decision-making by the board, lawyers almost inevitably attempt to undermine the credibility of the witnesses.

The tactics of legal counsel weigh heavily on the voluntary sector intervenors. For example, in the major 1979-80 Niagara hearing into the urban boundaries in the tender fruit areas, our president, a qualified planner and scholar, who presented most of our evidence in chief, was not only faced by a seemingly never-ending barrage of lawyers but was also entrapped while under cross-examination by one particularly aggressive lawyer. This led to further bold personal attacks in the local St Catharines press and, I feel, to our president's subsequent physical collapse on the stand.

Although the board chairmen did not participate in the legal incident, they did not intervene and their attitude was evidenced in their decision. While all other participants were noted for evidence, our president was not. This was particularly ironic, since the OMB decision agreed with and highlighted the case he put forward in opposition, for the most part, to the region, the local municipalities and the developers. He advocated redirection of growth to the south, intensification and infilling, as well as urban cuts totalling half the area in dispute. Although we won much, this aggressively adversarial and often ad hominem climate took an enormous personal toll.

One further contributing factor to the adversarial mood of the OMB perhaps lies with the preponderance of lawyers on the board who are used to this system. Planners are also familiar with it. Consequently, we feel that there should be specific rules for lawyers that leave no room for entrapment or undermining of witnesses, which is enforceable by the board, perhaps reinforced by guidance of a procedural adviser, something like the parliamentarian.

Board members should be required to intervene to enforce these rules of conduct when witnesses are being harassed. The case should be heard solely on the facts being presented and whether they enhance the case being argued. In other words, the case before the board should not be prejudiced by the ad hominem argument. These rules of procedure would only be workable through board members who are, by rule, thoroughly environmentally as well as municipally knowledgeable, and should be bolstered by the availability of intervenor funding. They should be enhanced through the use of expert witnesses called from the appropriate ministry by the board for their own purposes.

Costs against intervenors: The imposition of such rules of conduct for lawyers, as well as review process for board behaviour, could have avoided the previously noted charging of costs against PALS. In the case in question, both the lawyer and the OMB chairman were extremely aggressive and would have benefited by such rules. While PALS realizes some validity in the arguments raised in the new guidelines on costs, our experience is that most of our opposition lawyers automatically ask for costs, whether aggrieved or not. They do this to help denigrate our case.

Additionally, the use of the guide of reasonability when measuring an intervenor's behaviour is subjective to the chairmen. Therefore, when the intervenor has presented a reasonable case in the public good and to protect the environment and with no pecuniary interest, there should be no allowance for the charging of costs against it.

Public access and participation: PALS agrees with the former chairman, Mr Kennedy, that the Ontario Municipal Board should be an instrument of the public. The public should have easy access and participate as fully as possible. In cases where they are arguing in the public interest without financial gain, the public should be on equal footing with high-priced professionals who argue on the behalf of developers having a financial interest or, as we have seen in land preservation cases, on behalf of municipal governments seeking growth or promoting development, which may be contrary to government policy or negatively impact the environment.

Hence, we reiterate our call for intervenor funding, environmentally conscious board members, an absence of threat of costs and a non-adversarial, non ad hominem examination of fact, policy and public need. Additionally, since most people work during the day, the Kennedy tradition of scheduling evening board meetings should be practised more widely. As well, the practice of municipal payment for OP amendments and zoning appeals should be continued.

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Other considerations re the mandate of the board: Finally we see room for an expanded role for the Ontario Municipal Board as it relates to the defence of the environment. First, the board should not look at each case in isolation and should determine a mechanism to consider the cumulative impacts of development. As well, it should proceed to look at the compliance of municipalities with provincial policies and acts such as the Food Land Guidelines and the Planning Act.

The OMB should be able to initiate its own review of municipal official plans instead of leaving the monitoring task to the voluntary sector. We note here two particular areas of concern. First and most important, we have had to monitor the lack of conformity of local plans with the upper-tier plans in Niagara. It has been 10 years since the regional plan was approved and Thorold is still not in conformity. As the Ministry of Municipal Affairs has mediated to no avail rather than advise the minister to act under the Planning Act, perusal by an independent body such as the board would be of considerable value. We note also that Peel and York do not have official plans as yet. The province, through the board, should be able to intervene and impose plans which carry the Food Land Guidelines and other provincial policies.

In conclusion:

1. Fairness in environmental concern and equity should be pursued through intervenor funding. The OMB act should be amended and funds should be available where the case has been made by the intervenors who have no pecuniary interest and where the argument is for the public good.

2. There should be many board members with a diversity of environmental experience, voluntary, professional and academic, and training should be mandatory.

3. There should be a board code of conduct and an avenue of appeal separate from the particular issues before the board.

4. The board should take past decisions into account and environmentally important landmark cases should be used as precedents.

5. The board should be obliged to fully explore areas of inquiry related to government policy either through the appellant or through expert ministry witnesses called by the board.

6. There should be specific rules of conduct for lawyers that leave no room for entrapment or harassment.

7. The board should be required to intervene and enforce these rules of conduct, reinforced by a procedural adviser if possible.

8. The costs should not be assessed where the intervenor has presented a case in the public good.

9. The board should consider the cumulative impacts of development.

10. Evening sittings should be encouraged.

11. The board should be able to initiate reviews of municipal official plans.

12. The province, through the board, should be able to intervene to impose official plans which carry out the Food Land Guidelines and other provincial policies.

13. Municipalities should continue to pay the cost of the official plan amendment application appeals.

The imposition of these recommendations would make the Ontario Municipal Board truly a valid part of the planning process and a vital avenue of appeal from political decisions that impact negatively on an increasingly threatened environment.

Mr Bradley: The witness did not mention that the Preservation of Agricultural Lands Society—she was being modest—has done more to protect food land in Ontario than any other single group and continues to do so against some very difficult odds, as she has described, against moneyed interests and other circumstances, against powerful municipalities and so on, and has made many enemies over the years as a result. You can judge people by their friends and their enemies, and they have in many cases made all the right enemies. That is a subjective comment.

Mr Stockwell: I take it you are a friend.

Mr Bradley: I am, very much so. In fact, I even contribute to the walkathon each year.

Your presentation is interesting, because we had the OMB before us and you would be interested to know that some of the members of the committee directed questions to the OMB about this. I am particularly concerned about a couple of matters. My impression is that the Ontario Municipal Board is becoming, much less so than other boards, but it is becoming a haven for lawyers and experts and less a haven for, let's say, ordinary citizens of the province to make their case. You have made some suggestions on how that might be—have you seen any significant changes since the beginning of your interventions to this point in time? Are we seeing some progress in that regard or has the progress been small?

Mrs Janes: It is hard to say, but I would say that the last few cases have been better. Then again, you see, I might attribute it to the fact that we went without a lawyer to our very last case; indeed, the chairmen were very aware of the Food Land Guidelines and argued it right down the line. They were almost like our lawyer, and that was excellent. One of them did happen to be one of the newest members; I think he was head of the planning for Waterloo region. So whether that is half and half—I do not know where the other chairman was from.

But I do sense that there is a lot of lawyers. I looked at the last two annual reports from the Ontario Municipal Board, and I looked at the number of QCs, which tells you for sure they are lawyers, and there were about nine or 10 in each case, sometimes 11, and then they would retire. That does not say how many other lawyers are there who do not have the QC. That would be a third anyway.

Mr Bradley: We all know that makes a big difference in the quality of lawyer.

Mrs Janes: Yes, I have heard all about that. One of them got a QC during our major hearing. At any rate, that is a third, and then you could take it upwards from there with the other lawyers. Then you have planners, it seems a substantial number of planners, and I have heard there is one farmer.

I do think it is definitely heavily weighted to this system, which makes it, as you do it at pleasure or it had been at pleasure, I think, until more recently, something like the courts; you go on and you wait. It also sort of precludes the youth and it precludes innovation in some ways. The people, if they are getting there and decide they are going to go into it, it is sort of like a retirement sinecure. You are going to go there until you are finished working for ever, and you start when you are about 55 looking around.

Mr Bradley: It is like the Senate.

Mrs Janes: Like the Senate, right.

Mr Bradley: The next question I would deal with is again along the line of experts and lawyers. Not to pick on lawyers, but has it been your observation that some lawyers seem to be more successful before the board than others, either because they have developed a specific expertise or because they know people on the OMB?

Mr Grandmaître: Or because they are QCs.

Mrs Janes: Despite the standing when they all come in and all that, you sometimes sense there is a familiarity in the line of questioning between the lawyers and the chairs; I could not say which ones, but that has been my opinion.

But some lawyers do seem to have an advantage. One area where we find this is in the aggregate cases, with the mining in the kame. There is a particular lawyer who goes all of those hearings all across the province, and he is very highly paid and he is bolstered by the planners for the municipality or I guess an extra planner or two for the company. It just seems for that kind of hearing to be very overwhelming and rather intimidating, and he knows his way around and he seems to able to argue quite successfully. So I would say that some of them, yes, are very familiar with the procedure.

There are also some environmental lawyers who, if one had the money, are very familiar with the system and are able to argue in defence of the land or of the environment, but we can never afford them.

Mr Bradley: That brings me to the question about that situation, where the environment is involved. My personal observation would be that in years gone by the board has not been as sensitive to environmental considerations as it might be—I will put that very politely—and that members of the board have not had the background which would enable them to deal with environmental issues.

There is a problem, however, in determining what is an environmental issue and what is a planning issue. I know there can be an integration; I know there is a thin line. Let me express to you a worry that some people would have, that people will use environmental arguments to block strictly planning decisions. Let me give you an example. I do not want this to be the only example you will think of, but people do not want the psychiatric hospital in their neighbourhood because it is going to impact badly upon the environment when you have emissions from the hospital or something, when all of us know the real reason is that they do not want the psychiatric hospital in their neighbourhood. How do we differentiate? Should we go more to joint board hearings or consolidated board hearings on these matters?

Mrs Janes: I guess that is one option you could take. We have difficulty in convincing people—I think we are getting somewhere now—that land, the preservation of your land that provides your food is an environmental issue and therefore could go, perhaps, to a joint board with an environmental component.

On the other hand, I think there is another avenue. When you put your application in for appeal, part of the process as to whether you get funding is whether it is genuinely in the public good.

I am not as familiar, as you perhaps all know, with the cases—in fact, I am on the other side often, because I am arguing for housing, say, and against the NIMBY. I know people do use those arguments, but in the cases I have been involved in it just has not gotten down to that level. Really, these are broad-based environmental concerns, not narrow, "I don't want that in my backyard" kind of housing issues.

1430

Mr Bradley: I am jumping from place to place. The Chairman will move to another person when he sees fit, so I will be happy to relinquish and come back to you.

Is it your observation that a lack of precise provincial policy with regard to agricultural land is a detriment when you are attempting to make cases before the board, or is the detriment in that the board cannot make the judgements it might because there is not a definite enough provincial plan for agricultural land?

Mrs Janes: Our experience is that they are not even aware of what is there sometimes, or that they have no respect for the food land policy. The name Food Land Guidelines is very deceptive. I think that is why some chairmen say: "Oh, well, you know, it's just Food Land Guidelines. It's not really policy." And unless we have somebody there from OMAF to say it is policy, then we are up the creek when we have a chairman who is of this mind.

It would be very helpful, and in fact we have been pressing for legislation to preserve food land, and we would like at least to have policy that equals the Aggregate Resources Act and the aggregate policy. Everything in the province is protected by policy, really strong policy, and aggregate has particularly—you have to save your sand and gravel in Ontario; you do not necessarily have to save your food land.

The Food Land Guidelines seem to go along with their name. They have "you should" and "you could" and there is no "must" involved in it. That has played a part, I believe, because we get up and we are arguing against a gravel operation, and the chairman looks at the aggregates policy and says, "This is strong stuff," and it even has an act lying in the wings. But food land is just guidelines and there has not been any firm direction from the provincial agriculture ministry concerning some of the variations of the aggregate policy.

Under that policy, if somebody wants to mine they have to prove, in the case of food lands and particularly fruit lands, that they can rehabilitate it. But there is no real weight to that as to exactly what they have to do and that it absolutely must be rehabilitated to the type of fruit that was grown there before. There is just sort of the general idea that you should rehabilitate it to crops, and there does not seem to be any follow-up or real push to make the mining company follow through on the rehabilitation. It is beginning but it really is not there yet. There is nobody really pushing that.

Mr Bradley: The last issue I will touch on now before some other members may wish to intervene. It is the issue of awarding of costs or awarding of a penalty against one of the groups. You have the one specific case to which you made reference. We are not supposed to reveal what goes on in cabinet, but needless to say I was highly offended by the board's decision, when it came to cabinet, to make an award against you in that particular case of PALS. Do you feel intimidated as a group or have you felt in the past intimidated by the fact that you could have costs awarded against you?

Mrs Janes: Yes, and we have a long track record and are not easily intimidated. There are many groups out there who would be very intimidated. I have heard small groups in other towns say: "We could get costs. We could have a

penalty. We can't afford that. How can we go about this so we don't incur costs?" It is very intimidating indeed.

If you could deal with the adversarial nature, if you could deal with some kind of rules, if there was a rule which said if you are acting in the public good, if it was well known, then I think people would be less intimidated. They would know that they could go there without this threat. I have always felt that the whole issue of frivolity—vexatious behaviour, I guess, is part of that—but the frivolity part: if you are allowed to get to the hearing, to the board, then obviously you are not frivolous. The case where the minister was able to step in and say we were frivolous and then was proven to be wrong is one thing, but to go there and at the end of the day when you have done your best—

In our case we presented five witnesses, the best agriclimatologist in Canada was our witness, and we presented something that is now being studied in relation to the kame, the environment of the kame and the growing of fruit in that area, yet we got assessed costs. This was just horrendous to us, it was devastating. But we could see it happening, we could see what was happening in front of us, that the lawyers were intimidating, they were digging for information on our witnesses, they were getting the chairman all upset, and he, being of a volatile nature, got more and more upset to the point where we were going at it. We knew something was coming and indeed this was it. But why should we be assessed costs when we were not frivolous? We had not been judged frivolous; we had been allowed to come to the board. I just find that really unacceptable.

Mr McLean: Thank you for coming. It was an excellent brief. You certainly put a lot of work into it.

Some of the questions I have are with regard to—you indicate in the brief—training should be mandatory. How long do think they should train, actually, before they are involved in a major case?

Mrs Janes: First, I want all three things to go together. I believe there should be training but I also believe the people you pick for the board should have environmental expertise. I really would like to see some of them have some voluntary expertise, some experience within the sector that does these things so they have some feel for it. But the environmental component, I think it would help if the people you were picking, a fair number of them, had some environmental knowledge and expertise on their own.

But the training period—I know you are torn or you have been presented with perhaps two scenarios. One is the "at pleasure" and the other is a three-year term. I do not think three years is a good idea; at three years, you are just beginning to really get the hang of it. I would say five years of board and then a chance that you may renew or you may be off if you do not measure up. And then within that, I think a training component of a year would be plenty, in which you would not be making any decisions but you would be at hearings as part of that, and whoever was the chair would obviously be the one who was educated and would know the ropes.

Mr McLean: That sounds good to me. You would like to see a five-year appointment, with a review at the end of five years on whether they would continue or not. I think that appears reasonable.

Item 11 in your recommendation says, "The board should be able to initiate reviews of municipal official plans." How would that work when those people are supposed to be non-partisan? They are supposed to deal with an issue as it comes before them with regard to its own bylaws and official plan amendments. If they had the right to initiate reviews of municipal official plans, what—

Mrs Janes: I guess you have to take that back into the context. Perhaps in abbreviating we have not made it as clear, but what we are saying is that—in our case in Thorold, where there is a regional plan and it is in place and there are obviously things going wrong; there is a municipality which has not, under the act, come into conformity with another plan and it has been going on for 10 years—then I think at some point—sure, the government could perhaps do it, but they have this body that is able to handle municipal affairs and knows their planning and could very well do it as an independent body. They would look at the whole issue in Niagara, particularly with reference to Thorold, and say where has it gone off the track. I suppose we could take it to court, but it would probably be difficult. We were going to, but we did not have somebody in that municipality so we could not do that.

Mr McLean: I really thought the board was supposed to be the body which ruled on decisions that came out of official plans and zoning bylaws, and if it was hearing a case it could perhaps indicate to the municipality that the zoning bylaw or the plan maybe should be amended to coincide with what the government was thinking, or Municipal Affairs. I cannot quite see where they should be initiating reviews.

Mrs Janes: I guess I am just suggesting a broadening of what they do, although they used to bring municipalities in to assist them. They used to do it. I am not sure whether they still can do this, but under the old laws—they still do do it?—okay. So if they can do that kind of thing, then I would think they could initiate a review.

Mr McLean: During the last three or four years, there have been six lawyers and four others appointed to the OMB, and the chairman, of course. I do not know how he got his appointment. I think he said he just kind of applied for it in the paper somehow, although I read in the weekend paper that maybe that really was not the way it happened.

1440

Mr Grandmaître: Which paper was that?

Mr McLean: In the Toronto Star. I agree with you that there are too many lawyers. I think we need more common sense and people who are involved with environmental issues and that type of thing who should be appointed to the board.

Mrs Janes: If I could just say, I did read that article, and while I agreed with perhaps some of it, I really felt

that he was coming down hard on the side of the lawyers and planners and the old boys' network.

Mr Grandmaître: Do you feel that more and more people are relying on the OMB? I can remember my old days, 15 years at the municipal level. The OMB back in the 1970s did have a role to play in planning like it has today, but very few people were using the OMB. Now I think people—developers, planners—are using the OMB door. Have you noticed this in the last five or six or seven years? More and more people do not argue with municipal official plans or regional official plans; they say: "I want this to go to the OMB and get it over with now because it's costing me $150,000 or $250,000 a year. So let's not fool around and let's get to the OMB."

Mrs Janes: Actually, there is a case just now that used my statement at a regional meeting in order to send a letter to the OMB asking that the case be moved forward, because I had made a statement which they misquoted. But my statement was: "In the absence of the region or the municipality objecting to development in the fruit lands of St Catharines, we would object. We would go to the OMB."

Well, they took that statement and they turned it around and said that we were going to object no matter what and therefore we had better go to the OMB right away, straight away, you know, the shortcut, despite the fact that they themselves had asked for the public meeting in St Catharines to be delayed until they got their case together. You know, it seemed to be as it suited them.

Mr Bradley: Out of context?

Mrs Janes: Yes. As it suited them they were going to use—yes, they seem to know. They try and I am not sure they are going be successful but we had to be very quick on that one and send a letter right in to say our true intent and that we did not think they should break the rules. We thought there were some rules that would prevent that, but our head planner at the region says that they could do this. It was not illegal for them to proceed in this manner and they get to know how to do, how to make use, but I do not think the public really knows how to use the board any more than it did in the past.

I did notice in the review, I think it was in 1967 they had a review, and some of the people I know from Niagara were there making comments, similar comments, I would imagine to what I am making, so obviously they had some familiarity with the board at that time. So I do not think, as far as the public goes, that we use it any more that we used it in the old days, but I would say the developers are learning how.

Mr Grandmaître: Yes. Also, while you partly agree with me that—

Mrs Janes: Mostly.

Mr Grandmaître: Yes, using the OMB avenue. Having said that I am a former municipal politician, I have a tendency to blame not only municipal planners but municipal politicians for bad planning, because their official plan is supposed to be reviewed every five years. If it is reviewed every five years, well, then you would not have to go before the OMB.

Mr Bradley: You must be thinking of Grey county.

Mr Grandmaître: So do you not think that it is poor planning on the part of municipal planners? They say, "Well look, you know, let's put this through." They do have public meetings and the public is invited to comment on the plan, but I have noticed that municipal planners do have objectives and directives from council and they say: "This is what we want. Bad planning or good planning, this is what we want in our official plan," and go ahead and do it, against the Food Land Guidelines or—

Mrs Janes: Yes, I agree.

Mr Grandmaître: Would you agree with me?

Mrs Janes: I would agree again half. I think that five years is a bit unrealistic, because certainly in the region of Niagara, if you are dealing with a very large plan, to have to do it, it takes them five years to do the review, the way they are going. But with the smaller municipalities also, they do not have the staff to do this.

Mr Grandmaître: They do not have the expertise.

Mrs Janes: That is right. Now we do have variations within the region of Niagara. The larger municipalities with planning staff, such as St Catharines, now they have gone 10 years and there have been very few OMBs in St Catharines. They have stuck with their policy on agricultural lands. They have been very, very consistent and that has been due to planning expertise. But in the smaller municipalities, it is amazing, with lack of planning expertise and lack of staff and confusion and changeover—there has been terrific changeover of staff in some of the smaller municipalities, I can name at least three. As a result, in one case I know of, there is the plan that is sitting there at the ministry and it is full of—well, there will be people at the OMB just lining up to get there because the councils flip-flop back and forth, being advised one way and then another and they just have no direction. So unless somebody takes hold, there will be a lot of hearings coming out from that plan and heaven knows when it will ever get implemented.

Mr Grandmaître: Am I allowed one more question, or out of order?

The Chair: Fine, no problem. Go ahead.

Mr Grandmaître: No problem? I agree with you that—in fact, the present chairman of the OMB appeared before us some weeks ago and promised us that more pre-hearings would take place, and I think this is great. By the way, in your paper, the former Minister of Municipal Affairs, who qualified—

Mr McLean: What is the name?

Mr Grandmaître: No. I can tell you I was not the Minister of Municipal Affairs at that time.

Mrs Janes: No, before you.

Mr Grandmaître: Yes, just before me. I think we all agree that the OMB should have the mechanism in place to have pre-hearings just in case these people are asked—well, I should not say "just in case," but people do have to spend quite a bit of money to prepare their documentation and so on and so forth, and I do not think it is fair for them

to reach the OMB, you know, after months and months of preparation and it say: "Well, look, we don't agree with you. It's frivolous. It's vexatious," or whatever. I think every case should have a pre-hearing so that the groups objecting or the objectors know exactly where they stand.

Mrs Janes: I think that would be fine as long as we had funding or some hope of funding, because it is very difficult. You know, it is the planners and it is all voluntary time and it is a very onerous task to prepare for a hearing, you are right. It may not cost us any money if we are doing it ourselves, but it certainly is time off our lives.

But I am really concerned that when you get into the case of pre-hearings—and there is an article in one of the planning magazines by a lawyer, Mr Hodgins I think it is, that talks about what happens in pre-hearings, the scoping of issues, that kind of thing. You then get into a hearing and, because you have scoped, you miss out if something comes up and you really wish to go at it as it comes along during the hearing.

The other thing is that I have always felt a little uneasy about the stakeholder approach where you go in there and, you know, all the stakeholders are there and because you are leaving out a stakeholder who may live next door or be in that area, a farmer, say, and he wants to be part but he has been left out, therefore when you get to the hearing your voice perhaps is not going to be of any weight.

So I do have some concerns, but I agree that if one were funded and one had, was able to fund, the expertise that we need, with some kinds of rules about scoping so that we did not lose and we did not give away all our case ahead of time to some element of surprise.

1450

Mr Hayes: I just wanted to go back to Mr McLean's question there dealing with number 11. Can I get a clarification on this? Are you suggesting that they review and make recommendations to the municipal official plans, or are you saying here that maybe they should be familiarizing themselves with the official plans so they will know, have a better idea of planning in that municipality before they make decisions?

Mrs Janes: No, that is not what I mean, and again I apologize for the condensation of number 11. It was merely to do with where there are inequities, where there are gross, sort of non-conformance with the Planning Act, as in the case of Thorold, which is not in conformity with the region after 10 years, or in the case of the two counties where—actually 11 and 12 go together—they do not have a plan in place yet, even though it has been quite a while, that they be able to initiate a review, as directed by the minister.

We are not saying that they should suddenly say, "Oh." I mean, they could hint to the minister that there is this area of non-conformity in Thorold, or we could write as a group, say, write to the municipal board. I think we would be more inclined to write to the minister, though, and ask the minister to direct the OMB to look into this case and settle it.

Mr Hayes: I guess the other thing too, some of the problems that we have been faced with in a lot of municipalities dealing with preservation of agricultural land was the fact that I guess for too long we have gone by guidelines and suggestions rather than putting legislation in for protection of this. Then these things that we are able to, you know, make some of these preservation of agricultural lands—for example, if we could get some strong legislation that says it is law, we would not be faced maybe with this kind of problem. There might be problems making it that way in the first place.

Mrs Janes: Yes. I think it does deserve the same kind of preservations attitude that we have towards sand and gravel. Let's put it that way. It just has always bothered me that we do not look at it that way and that we do not take leadership. Some people seem to think that you can do it from the municipal level up, and I guess in an ideal world, I as a voter can keep my municipal politicians under control until I am 90, but in the real world they seem to get their way, and I think there has to be leadership at the provincial level. You would not protect your water that way, by allowing the municipality—you would not protect your air that way—those things. And food and land, those are the same kinds of issues that go right down to the roots of it.

They are environmental necessities and we have to protect them for the sustainability of Ontario's food supply for the future, and therefore we have to do it with leadership, and it has not to date been handled in this manner. It has been handled in a lesser manner than sand and gravel.

Mr Hayes: I guess the other thing just on that issue, when you talk about preserving agricultural land, I am sure you are well aware that farmers are faced over the years with high interest rates and especially with low commodity prices, and you get speculators or developers or whatever coming in and offering them quite a substantial amount of money for their land. It is kind of hard for some of those people to refuse probably a significant sum of money when they are continually trying to farm and continually losing.

Do you have any ideas that way? Because as far as I am concerned myself, I think we have to try to come to some kind of solution where we can make incentives for a farmer to continue farming. You know, it is just too attractive sometimes when you are continually losing money and then that big buck comes in there saying, "I'll buy that land off of you." It puts a lot of pressure on to the farmer.

Mrs Janes: Yes, we have been dealing with that particular issue for a long time and it has been where the pressure usually comes from, from the farmers in difficulty or some of them who are not in difficulty but who want to be more secure. Naturally it is their retirement money. We have given it a great deal of thought and we have come through a process where we at one point believed that the land should be in reserves, legislated like British Columbia, like Quebec, whatever we could get, and that would, you know, be it.

We based that partly on the fact that even when you live in a city, you have certain restrictions. You cannot just turn your house over to a McDonald's or whatever. There are freedoms and responsibilities and restrictions wherever

you are. But having said that, we feel that those kinds of systems usually break down at the political level, and when a new government comes in, changes are made and then land goes out of the reserve and lesser land comes in or uses are allowed.

So we have decided—and we have worked on this for two years now—that the best way to preserve the land is to do it through a system that pays the farmers to be keepers of the land, to care for the land. That allows them to continue owning their land and yet they would not be allowed to develop the land, and this is the system of what we call easements, conservation easements.

We do believe that if we could—through trust or through some other mechanism, land commission, whatever, private trust, public trust—purchase easements from the farmers, particularly in Niagara where the pressures are so great and where the dollars are so great, they would then be able to use the money in this current crisis and perhaps over a period of 10 years, with a down payment and then paying through the next nine years, they would be able to put the money into farming until we can get some other mechanisms in place to help them with the farming that they are doing to make it more economically viable and at the same time save the land, because the easement would be placed on the land and there would be no development on that land for 99 years or 100 years or for ever, or perhaps 25 years with a review at that time. We feel that is going to be the only way we can take this pressure off, out of the political spectrum and into the future.

We know that when the grapes were pulled out, $180 million was turned over to the grape farmers and we received nothing in the way of land preservation in return, and we feel that we deserve to save a unique industry in an area that you cannot replace anywhere in Canada and in fact where the peaches are better than those in Georgia and where there is an area climatically favoured and in fact superior to California, where they are having terrible water problems and salt in the soil. At any rate, they are having real problems, and we have this unique thing and we feel that it is worth that kind of money.

In the rest of Ontario, we feel that at some point in time all the money that we are putting into these programs, it sometimes compensates farmers for poor farm practices. There should be some kind of mechanism where you can get into conservation agreements whereby the farmer does not have to farm the life out of his soil and farm every inch, and where wetlands can be put back and such. We think that somehow there has to be a way to have a conservation mode for our farm policies and our farm payments. But in the meantime, we feel Niagara is so special and that there is this precedent of the grape relief program, which was federal and provincial, that if we can somehow start there and preserve this unique resource, this is the way to do it; not by police powers, but by our saying as a community and as a society that we are going to share in the cost of preserving the land. The farmer does not have to do it all.

Mr McLean: And where is the money going to come from?

Mrs Janes: Through public investment.

Mr Wiseman: I would like to compliment you on your presentation here this afternoon. It is a topic that I have to wrestle with in my riding and I would like to come at it from a couple of points. I think one of the things that we have to deal with—in some of the comments that you are making—is that we have a perception out there about private property: They own it, they can do what they want with it. I have seen this on more councils than I care to think about.

I would like to throw at you the notion that, sure, it is private property, but it is public heritage, and to maybe come at it from that point of view. From what you have been saying this afternoon, I take it that you would perhaps agree with that.

Mrs Janes: Yes, I agree with it, but I also know that in theory it all belongs to the crown. Even if I live in a city, you know, I am keeping the land for the future, shall we say. There are restrictions, as I have said before, and in the countryside this is also the case. The farmer's land can be zoned into agriculture for ever or reserved, but in practice everybody has this expectation and they have through history been allowed to develop, been allowed to have these rights of development and private—it is not enshrined in law, certainly at the federal level. Real estate people would like it to be enshrined in law, but it is not, so I do agree with you that it is a public heritage.

But on the other hand, our experience is that the biggest pressure on farm land comes from farmers who cannot make a living or farmers who wish to make the dollar and sit under the palm trees. So we have to deal with the reality of it, and if that is the reality, then I think we all have a part to play there.

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Mr Wiseman: One of the rather frightening perceptual problems I see when dealing with this problem, with farm land, is that you will have a reporter standing in front of a large field who will make comments that, "This unproductive land is empty. There is nothing here," and out of this wilderness there will all of a sudden emerge some great productive establishment. Would you care to comment on that philosophical or attitudinal approach?

Mrs Janes: Even the Food Land Guidelines say that it does not matter if it is not being farmed, that it is the future capability of that land. That was recognized as far back as 1976, or was it 1974? But we have seen that pattern and it is rather a difficult one to overcome sometimes. In Niagara, it is usually where the corn grows. Then you get the empty fields or the grape trees going to pot and you see people saying that.

But I think we have sort of a silver lining here, that the public is far more aware of the need for sustainability. They really know that we need to preserve our environment, that it is for the future. I think the thinking now is more for the future. With the young people coming along, it is the future that counts. They do not seem to have these attitudes. I am not hearing it said as much now by people: "Oh well, it has just gone to seed. Why bother?" I am not hearing that the way I used to hear it. There is a much

better attitude on the general public's part and they are also sharper, I think, because of the publicity we managed to get, and other groups. They know that the developer is out there to get what he wants and they suspect that no matter what he might be up to, he is in the wrong, so I think that is how to consider it.

Mr Wiseman: My last point is about official plans. From where I come from, an official plan is not worth the paper it is written on. It does not restrict anybody from redeveloping. I had at least three battles in my own mind prior to being elected that I fought where land was zoned either agriculture or open green space and was just flipped immediately without any concern. It contradicted all the town plans and all the official plans that had been written and it was just done. I am trying to grapple for some way we can put a little bit more teeth into official plans, so that in fact when you have prime agricultural land designated as such, it stays that way.

Mrs Janes: I guess that gets back to Mr Hayes's suggestion, that if you have some strong policy or legislation, if you have some provincial teeth, and then if your board chairmen are aware of the provincial teeth, and then if you have intervenor funding so that those other people can have a say on who might be arguing the case, and then if you have the awareness on the board's part of the issues through the environmental issues, more consciousness there, I think all the things I have said and that we have said in the brief would help alleviate that problem.

What you are facing is just what we have been facing. It is that the planners, the lawyers, the money and the pecuniary interest people can march into a hearing, and it does not matter what your plan is, they can win. It is very interesting. In the Niagara hearing that lasted a year, the main part of it in the north, we had to raise over $100,000 and then we did get some legal aid after that, do we prove sort of injury and such.

We stayed there for a year with one lawyer and all these lawyers, and the province came for possibly one and a half days with a court reporter and it did not defend its own guidelines. That is why we are cited in the decision as defending the land in the absence of anyone else including the province. Now we should not have had to do it and you should not have to do it. Nobody should have to do that in the future.

Mr Wiseman: Just one last comment: I would suspect very strongly that the local politicians would not allow me to pull down my house and put up a six-storey apartment building because it is not zoned for that.

Mrs Janes: That is true. We have to elect the right people too, but that is hard for us.

Mr Sola: I would like to refer back to your list of recommendations and hone in on recommendation 5 and ask for an elaboration because on first reading it says, "The board should be obliged to fully explore areas of an inquiry related to government policy." Somehow that seems to place the board, an appointed body, above an elected government, and also seems to suggest that the board may act as a body of opposition to the government. I am wondering if you can elaborate on that to clear it up.

Mrs Janes: No, I certainly did not mean it to mean that. What that means, if you relate back, is that we feel they often do not—our opinion is, and maybe I should elaborate more, that in some hearings, unless we are able to bring our expert witnesses and get through the barrage of planners and lawyers to the Food Land Guidelines or through what other policy that might be in place to help, the board does not go out of its way to do this and sometimes if they do not really have a consciousness or awareness or understanding of the policy, it might not get touched upon.

I could see somebody coming as an individual without a lawyer or anything, and not touching on these issues, so there is absolutely no reference, and certainly the opposition is not going to mention any of these things. We feel that as well the ministry does not send people automatically to a hearing if they feel it should relate.

We have had one case, too, where we put an objection in, the Ministry of Agriculture and Food put an objection in and then it did not turn up. We were not assessed costs, but they did not turn up. There has to be some way to make sure that the government policy is referred to. I do not mean that they are an adversarial—in fact they are supportive of government policy. They bring the government policy in and they use it, and it has to be there, either through expert witnesses or our expert witnesses.

Mr McLean: Just a couple of very short questions: I have observed in some cases in Simcoe county where there has been an individual who is interested in the preservation of agricultural land who would object to every application anybody would put in for rezoning and I find an OMB hearing on it, and a great cost to a lot of people involved. That certainly leaves some room for me to have some reservations with regards to perhaps what some of the people in the province feel towards preserving agricultural land. I happen to be a farmer, as you may be aware, and I do believe that farmers, if you are going to have the conservation or preservation of agriculture land whereby you say that you cannot sell it—in the United States they have that policy. They pay to keep the farmers on the land.

Mrs Janes: That is where we are coming from.

Mr McLean: Today they are trying to negotiate this GATT contract whereby they stop all the subsidies to farmers, so what are you going to do with the farmers in the United States and here, if you want to have the same policy here?

Mrs Janes: I think it depends on what you are calling subsidy. There would be, probably, some major case on this at some point in the future if we put it in. But if you are talking about paying for conservation practices that preserve land, it is a little better than talking about subsidies and such to increase your income. If everybody is on the same playing field—because the Americans are certainly, definitely—this is where part of our research comes from, a major part.

We had a fellow up from Maryland who ran their Carroll county program. He is a farmer, and they do pay the farmers to be stewards of the land and have these conservation easements. But related to your person who objects

to everything, he would not be able to object if something wrong was not happening there. Depending on the strength of your plan in your municipality, he has every right, in the absence of political will, to take those cases to the OMB because it is the only place he can go.

Mr McLean: I guess the final point I want to make is the fact that we are not subsidizing the farmers in this province; we are subsidizing the consumer.

Mrs Janes: Yes.

Mr McLean: If you paid the farmers what it costs to produce, they would be happy.

1510

Mrs Janes: Absolutely. I sit on the subcommittee on sustainable agriculture of the Ontario Round Table on Environment and Economy, and this is a point I have just put in a memo to the group. We have a cheap food policy and so do the Americans. Perhaps some of the savings from land that is better cared for and those kinds of things might be passed on in a different way, and there would be a different way of helping the consumer. But I do think we are not like Europe, where they line up and have to pay the top price and such. I think we need to pay a true price.

Mr Stockwell: I have not run into the same situation Mr Wiseman has with respect to official plan amendments, where they simply re-do it like that. There is a whole entire process that takes place and public hearings and so on and so forth. I guess maybe it is your particular region that has adopted that, but I always thought it was provincial guidelines or rules that they in fact had to do that. The question I have, though, is, if your local council had not supported the development or rezoning, etc, would they have sent legal representation to the OMB, should the developer or whoever had gone on to the OMB?

Mrs Janes: I am not quite following your question. I am sorry.

Mr Stockwell: If there is some application in some region for change or development that you do not agree with fundamentally, and the local whatever, board, council, voted on it and they opposed it, it goes on to the OMB because somebody took it to the OMB. Would the local region or area they have sent legal representation to the OMB? You are talking about all these cases where you appear.

Mrs Janes: I have not heard any.

Mr Stockwell: You are appearing, and the local councils or the local regional councils do not send lawyers and planners?

Mrs Janes: In the larger hearing it is a matter of practicality and where they spend their time. We perceive that they tend to be spending more time on the side of the developers than they are—

Mr Stockwell: That is not the question, though.

Mrs Janes: But when they came to the larger hearing, there were certain parcels that we objected to. They were there and they were on our side, in other words, but they did not really speak to it to any great degree. Our lawyer pretty well carried the case.

Mr Stockwell: I see, but the ones you are having more difficulty with are the ones where the local council disagrees with you, and therefore you are going to have to go to the OMB and get your own lawyer and get your own planner and pay for them yourself.

Mrs Janes: Yes, this is where local councils are not following the Food Land Guidelines in some cases.

Mr Stockwell: Local councils make a decision on amendments and rezonings and changes, which is completely up to the local council. They are duly elected people.

Mrs Janes: Oh, absolutely.

Mr Stockwell: So really, when you get up there and you are dropping a lot of money, it is because the local electorate that has elected this council simply does not agree with the position you are espousing.

Mrs Janes: The electorate has nothing to do with it, actually. The reality of the case is that you are not going to do it through the ballot box on one issue. You could say to me, and I have had the head planner say to me, "When I get seven regional councillors who believe in the preservation of land as they did when the region was started, then I will start leading the way and talking preservation." Then it is up to me to get rid of the politicians on a one-issue and you really cannot do that. The only issue you can get them on is conflict of interest, and we have done that. But you cannot expect the electorate to be—

Mr Stockwell: I guess this cuts at the fibre of democracy. If these people are duly elected and this is the decision they make, then that is democracy.

Mrs Janes: But there has to be some leadership, there has to be provincial leadership, so that those municipal councils will, and this gets back to Mr Hayes's idea that if you have leadership and you have food land preservation either legislation or policy, then the municipalities will indeed stay in line a lot better than they do under the Food Land Guidelines. It is all interwoven; it really is.

Mr Johnson: I was not sure if I was going to be able to ask this question or not, because I was not sure where I came in the line-up, but anyway—

Mr McLean: Last.

Mr Johnson: Last, yes.

Mr McLean: Prince Edward-Lennox-South Hastings is always last.

Mr Grandmaître: You can appeal to the OMB, you know.

Mr Johnson: Mrs Janes, this was a very comprehensive and enlightening report you presented to us today and I am really glad I had the opportunity to be here and hear it. The Macaulay report warned against the tendency of administrative tribunals which were set up to offer cheap, expeditious and efficient justice to become judicialized, and I think that has happened to the Ontario Municipal Board. Something that you indicated was that the members of the board are mostly lawyers and as I looked at the list I have got here there are 30 people on the board and there are only two who would have any, if I might say, sincere

interest in farm land because they are identified as farmers. The rest are lawyers or planners or some municipal people that may not have that real sincere interest.

I was a municipal councillor and I often heard people who would threaten to go to an Ontario Municipal Board hearing, or to take their issues to the Ontario Municipal Board hearing, and may or may not follow through with that threat, because of their concern.

I wanted to ask you specifically, and you may have answered this already, but I will ask this question: It has a little bit of a different slant to it. From your perspective or experience, have you found that wealthier private interests have used the Ontario Municipal Board to circumvent decisions of municipal government deliberately?

Mrs Janes: It is a little bit different than Mr Grandmaître's question. I would not go so far as to say they were subverting. They try to speed up the process and go around, yes, but I would not say that they have ever subverted.

There is one incident somebody brought to mind as we were going through this brief at our major hearing. Again, this means that they should have the education, experience, the commitment, all those things together, and the rules and be able to enforce them, because sometimes even the board, I believe, when you get a battery of lawyers, QCs, the whole bit, out in front of you, is pretty intimidating.

They can be confusing too, and then they back each other up. I think at one point a whole bunch of them sort of threatened that if the board did not do something or did do something, they would proceed to take them back to a position that they were at at the beginning of the hearing, and at the beginning of our hearing, our chairmen were taken—we had to go to court because of the first decision in Niagara South, which was favourable to us, completely favourable. They threatened to take and they took to court the two chairmen and tried to prove that they were biased and that they were too much on our side. We won and we got costs, but it was intimidation, so sort of towards the end of the hearing, there was again this sort of threat.

I have seen it also with municipalities. I have seen developers come in—in fact, right after that hearing was over, I believe, some of the developers were threatening St. Catharines that they would take them to court, to the OMB, if they did not go by their old plan of 1958 that said "industrial here." Some municipalities are easily threatened, and that is all I can say about it.

Mr Johnson: It seems evident too from your brief that in order to preserve our farm lands and agricultural lands, there is going to have to be some state or government intervention, and this undoubtedly would have to be through legislation and some long-term goals. I guess that this, depending on the exact legislation, could be a costly process. but that is not necessarily so and it depends on the terms of these goals.

Mrs Janes: Yes. It could, but the way we envision it, we envision everything as being just and fair to the farmers, maybe particularly, but we envision everybody working together. In the United States what they do is they float bonds. You pay so much money out for highways, for interchanges, for all these things. And sure, they are in the public good in one way or another, and they might, in the case of our Highway 406, save 10 minutes from a person's time. But they are worth a lot of money. We spend a lot of money and we could very well float a bond, get the public involved, public investment, public awareness.

That is what they do down there. They have referendums and then they get all involved and people vote to spend a certain amount of money; $100 million in the case of New Jersey, I believe, and Maryland is pretty high too.

It is a case of where your priorities are. It is not just the government saying, "I have got this much in my budget." It is looking in a visionary way to find how we can raise public awareness and bring it up even higher than it is and get everybody involved and, in the long run, your aim is good and I think you can do it.

1520

Mr Bradley: I am going to go back. There are a couple of issues you dealt with that I would like a little elaboration on. You have expressed a desire to see intervenor funding; you have expressed a concern about the awarding of costs against somebody—I guess that is designated costs against somebody—and you have talked about scoping, which you see as a problem.

I am going to put this scenario to you, that when the new government makes its decision regarding intervenor funding and award of costs and scoping, it will not be able to accept that we live in a perfect world and will have to make some tough decisions. The Minister of the Environment or the Minister of Agriculture and Food or the Minister of Municipal Affairs may have some ideas. By the time that the Chairman of Management Board and the Treasurer get hold of them, they will not be such good ideas.

I guess I am asking for your criteria. I noticed you made a positive comment about your suggestions to the board on awarding of costs. Under what conditions do you think costs could be awarded against somebody? There may be some conditions out there. Obviously I disagree with the board in the specific case you mentioned. Where would you say that it might be, however, possible for the board to award costs? Under what conditions would you say that might be possible?

Mrs Janes: I guess the obvious one would be if a developer came in and was in obvious contravention of the Food Land Guidelines or some legislation, if there would be such a thing, and the municipality was also against this, and that would be considered a frivolous case or vexatious case. But the point is that even there, if you go through a process where you decide whether it is frivolous, whether you have pre-hearing or you have a precondition, you would not get to a hearing, I would not imagine. Therefore there would not be the cost.

The other case would be behavioural, and I think that where behaviour is poor or simply dreadful towards persons on the opposition, perhaps one could do that. But I think that is again subjective. In the case where we were awarded, the chairman was obviously agitated and all worked up and was going to do it. It was actually a personal thing with him and one of our witnesses that was part of it.

I am just not sure there is any case for costs if you have this other procedure in place, where you make sure that the hearing does not go forward until such time as it is sure to be not frivolous.

Mr Bradley: Years before that regulatory change was made, when cases could go almost willy-nilly to the OMB, there may have been a case for it. You believe, however, that to put it in now, where there is a vetting of the cases going before the board or a vetting of the opposition, that in fact it may be unwise or dangerous to have any awarding of costs?

Mrs Janes: I would say that.

Mr Bradley: There is intervenor funding, as you know, at the present time for an appearance before the Environmental Assessment Board or the joint board, the consolidated hearings board; there is not before the Ontario Municipal Board. The Treasurer of Ontario will look at any proposal for that and in horror recoil at the potential costs for the province. How would you restrict the intervenor funding? What criteria would you establish for intervenor funding to avoid the encouragement of people who—in the case Mr McLean mentions, I do not know whether the man has a valid case or not, but there are some people around the province who like to appear before various agencies, boards and commissions as long as it does not cost them anything. How do we avoid that without penalizing people who have a legitimate case?

Mrs Janes: I guess part of it is this preliminary thing, and whether the case is in the public good and without pecuniary interest. Those are the basic parameters. I do think if you have legislation or strong policy and you have a ministry willing to police it, if you have all those things in place, you will not have people coming before the board. In other words, if we had what we wanted in Niagara, we would not have to go to the Ontario Municipal Board. So you are going to cut down the number. All these things being in place cuts it down. But, barring that, if it takes 10 years to get there and you have this worry about these individuals, I think it is the preliminary part that will play the biggest role.

I think that there absolutely has to be funding where it is in the broader public good in the interim, where there is no government going to do this, and if there is no pecuniary interest, there has to be some mechanism. After all, there is for the Environmental Assessment Board. Maybe we will have to be switched out of mode into those hearings if we cannot get it, at least for our issue. I am not saying for all these other people, but I am saying for the issue of food land preservation we may have to be considered part of the environment, which we should be, and maybe that is the way to go.

Mr Bradley: The municipalities' concern, as you know from following municipal politics carefully, and the concern of some people who wish to have housing developments—let's look at that now. Let's say there is a union that wishes to put up a housing development in the community and the people next door are going to object. We all know how the people next door will not object, that is, you pay them off. The other danger is that you pay them off by buying their property at an inflated price. The project could be held up, the prices could climb on a project which is geared to people who are of modest income, while someone is almost extorting money out of the—in this case, the developer would be a non-profit organization.

How do we overcome that particular problem? That is a very difficult question, and perhaps unfair to put to you, but how do we overcome that problem? I know you have been involved in the farm land ones and you have been involved, in another sense, in defending low-cost housing developments within communities.

Mrs Janes: It is difficult.

Mr Bradley: I do not have the answer. That is why I am supported by you.

Mrs Janes: I really feel that there are inequities certainly in this whole thing of being able to hold up non-profits where there is a need for them. I have spent four or five years now trying to overcome the not in my backyard, NIMBY. If you do not mind, I will decline to answer that question because it could go on for some time and I would not want to get off subject.

Mr Bradley: That is fair enough. I will ask you a question on precedents, because you mentioned precedents in your brief. The problem with precedents is there are good precedents and bad precedents, and it is hard to pick and choose. If you are going to go by precedent, what happens if the precedent is a bad one and so at the next hearing, a board person says, "There's the precedent on it, and I guess we're going to turn this land over to developers to develop because it's lying"—the argument always is that it is just lying there, as Mr Wiseman says, not being used. Of course, somebody has purchased it and deliberately left it that way to be able to make that argument. But that argument is put forward in that specific case.

So is there not a danger in bad precedents as well as good precedents? Are you not in a better position to wait until—for instance, there is a new government now that could make what you might consider to be better appointments to the OMB. Those people might make good decisions all along, and then you would not have to worry about those big bad precedents from the past.

Mrs Janes: Until the next government—no, no. There never will be. But I thought of that actually, and that is why I put in the line on page 4, I think it was, that "environmentally positive landmark cases should be used as precedent-setting." I really was not thinking of detrimental ones being used. I think they would have to be, to the normal person, considered environmentally positive, progressive.

Mr Bradley: I have two more quick questions that deviate a bit from the OMB, but you are the only witness this afternoon and the Chairman is such a tolerant individual.

Mrs Janes: I am the only one. Is that why?

Mr Bradley: One is on whether you believe, as a person who has worked to preserve agricultural land in the province, that a land speculation tax would be helpful in preserving agricultural land.

Mrs Janes: If you had all the rest of this in place, you might not need it, but I think it could be made to work. I have not given it a great deal of thought, I have to admit. But I certainly think the threat of it would be helpful. Was it not Mr White as Treasurer who brought in a mechanism? In that case, I think he was looking at housing and the people making money on housing.

His philosophy as a good Conservative was that housing was a right and we needed to protect that right, and that people should not be making copious quantities by flipping homes and such. It seemed to work for the short period that it was in, as far as that went, but for land I do not think it would hurt to consider it further. I am not strong on it because really I have to admit I have not really thought about it the way I thought about the more positive—I am always one not to think of punitive but of more positive approaches.

1530

Mr Bradley: That is true. My last question deals with the environmental bill of rights. There is a proposed environmental bill of rights at the present time and members of the agricultural community—Mr Hayes may be familiar with this—have expressed some concerns that an environmental bill of rights could be used against farmers. We are not talking now about farmers who are grossly violating the environmental laws of the province of Ontario; but we are talking about bird bangers, we are talking about odours and we are talking about dust that might be created from an operation. We are not talking bad management practices; we are talking normal farm practices.

When you talked about preserving, you have always said consistently that when you are going to preserve the land, you have to preserve the farmer. You have consistently put that position and not just the land. Would it be wise for the government to consider the possibility of wording the environmental bill of rights in such a way that it could not be used to interfere with normal farming practices?

Mrs Janes: I do not think it would hurt and I think it is somewhat like the bill. The farm practices bill talks about normal practices, but then you get into what is a normal practice, that kind of thing.

Mr Bradley: Sure. I understand that.

Mrs Janes: I think the farmers are perhaps overreacting because I do not believe that the environmental bill of rights is going to do any more than what we already have: a right as citizens to clean air and clean water under the federal acts and whatever provincial acts. It is not my perception that the environmental bill of rights is going after farmers or will be misused. I think it is more to do with industrial polluters or other polluters that people can then take perhaps through to court or whatever body is set up.

I do understand, though, where the farmers are coming from. I have read a bit about it and I believe that in Canada there have only been between six and eight cases where actually a farmer has ended up in court, one of them being the Saunders case. When they end up in court, they always lose, and I have said for about 20 years now where you allow development right up on top of urban people, where you do not have the distance factor, the separation, instead of having the urban people provide the buffer, it is the farm people that end up providing the buffer. Then you are going to end up some time in court or in some other avenue, and the farmer will lose. I know at our hearings also our board chairman wanted to put it on the deeds. They looked into that and they found out there was no point, because everybody has the right to clean air and clean water and you cannot legislate something like that.

So there are two things. One is I do not feel that this environmental bill of rights will be impacting the farmer the way the farmers perceive that it will, any more than they are already impacted through these others. The other is that definitely the emphasis, I believe, should be towards the other, the major polluters and such that people—and in fact it has not been really ordinary people like ourselves, groups like ourselves, that have gone after farmers. In the case of Saunders, it was individuals who were wakened up by the bird bangers and those kinds of things, and then the ministry intervened.

I just do not see the environmental bill of rights being used in that way, but I did hear that there were not any farmers on the original committee that is looking at it. I think they should be there so that they can understand fully where the thinking is going and have their own input. I do not think those farmers want to pollute and do not think they are thinking that. They are thinking of the obstructionist kind of things like the bird bangers and the fact that those farmers lost two years of their income and went through a horrendous experience. It was extremely difficult for them for no real reason.

Mr Bradley: I would agree with that, and the last comment I would make to you is that I think you have made a valid point when you have said that, going back to the planning practices, what you have to do is not allow these continuous severances and the intervention of urban people into the midst of farm areas where they complain once they get in there, when they buy country estates and move next door to the farm and then start complaining. That is the concern that they have and I think everybody has. You have made that point over the years. Thank you very much for your answers.

Mr Hayes: I think that was a very good question that Mr Bradley raised there and I do respect your response on that. I will ask you a question and then tell you why I am going to, why I am asking. Does PALS get involved with many cases where a city is going to annex a rural area? The reason I am asking that question is that I know there are some city politicians, for example, who themselves would like to preserve that agricultural land out there, but if it becomes part of their city, the interest does not seem to be the same there. I am just wondering if you can comment on that.

Mrs Janes: We have peripherally been involved in a great deal of correspondence over the phone and such with other groups. I think at one point we gave advice on the Barrie case. Right now there is a case that could develop into that, I think, and that is up in Kanata where the hockey franchise is. We have class 1 and 2 land up there and there

is a group that we have been dialoguing with who are trying to preserve that land. It looks very much as though that developer has managed to buy up a fair amount of land all around this 75 acres or whatever it is, 100 acres, it looks like about 750 around, and then it is far enough from the urban boundary that there could be up to 7,500 acres involved in the end, all because of a hockey franchise that we feel should not be on farm land.

The ministry, I gather, agrees with us so we have been dialoguing with these people about how they can fight their case right from the beginning actually. They felt extremely overwhelmed. They were threatened by the mayor, they were threatened by people. There are thousands of people want this hockey franchise and they do not maybe realize it could go somewhere else within the urban boundary, but some developer holds all this land and therefore it is going to be there if this case goes the other way. So we do try to help prevent those kinds of situations from coming up.

Mr Bradley: They already have an arena in Hamilton.

Mrs Janes: That is right, Jim, and that is where it should go.

The Chair: I am sure there are no members of this committee who hold season tickets, either.

Mrs Janes: Yet. The mayor is working very hard. Now he is no longer the mayor. I forgot, he stepped down. I hope I have not said anything libellous.

Mr Grandmaître: I would like to adjourn the committee.

The Chair: Mrs Janes, thank you very much. You have been one of the first witnesses. In fact in the history of this committee we have had very few client groups appearing and commenting on the agencies, boards and commissions under review by our committee. This is something relatively new and, if your testimony is any indication, we are certainly going to continue this practice. Most helpful, a most articulate witness, and I am sure that you have helped the committee's deliberations immensely, so thank you very much for appearing.

Before we break, I just want to remind the members of the subcommittee that we are going to be meeting for lunch tomorrow at noon hour. We will see you at 10 o'clock tomorrow morning.

The committee adjourned at 1539.

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Le mercredi 13 février 1991

Standing committee on government agencies

Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

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Clerk: Douglas Arnott

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Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 13 February 1991

The committee met at 1008 in room 151.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: I guess everyone has their coffee. We will call the meeting to order.

Mrs MacKinnon: I do not have a copy.

The Chair: You do not have a coffee?

Mrs MacKinnon: Oh, I am sorry. I do not have a copy of the—

The Chair: The agenda?

Mrs MacKinnon: I have the agenda, but I do not have the résumé.

The Chair: One second, we will find one for you.

Interjections.

The Chair: They have been supplied to all of the members, I believe. We will ask the clerk. Were the résumés provided to all the members? They have been?

Clerk of the Committee: Last Friday.

The Chair: Last Friday they were circulated to all of the members, but if you do not have any, the clerk has additional copies.

BRIGITTE KITCHEN

The Chair: Our first witness this morning is Brigitte Kitchen. Is that the proper pronunciation?

Dr Kitchen: It is actually Brigitta.

The Chair: Brigitta?

Dr Kitchen: It was anglicized. It is actually Brigitte originally.

The Chair: How would you like to be referred to: as doctor, professor, or any preference?

Dr Kitchen: I could not care less. I have a perfectly good first name, so Brigitta is fine.

The Chair: Okay. Would you like to make any brief remarks before we open the floor to questions from members of the committee? Any comments you would like to make?

Dr Kitchen: I am happy to be here. I am ready to answer any questions you have for me. So shoot away.

Mr McLean: Doctor, you have been recommended to this commission. I would like to find out your views with regard to the Premier's announcement and then the Treasurer's announcement with regard to the 8% tax on all businesses and corporations. How do you feel about that?

Dr Kitchen: These are the Premier's views. I am sure it will be part of what the tax commission is going to look at, but what our views are going to be would be too early to say. You know, we have not even met once.

Mr McLean: I would like your views with regard to taxation. A corporation or a business that makes $250,000 a year, do you feel that that corporation should not pay any tax?

Dr Kitchen: You are phrasing the question in such a narrow way that I have great difficulty answering it, you see, because there are principles involved and then there are particular circumstances of a given company. I could say that in principle one would say that everybody who has an income that was considered sufficient to pay taxes—the old taxation principle, ability to pay. Then in principle one would say that such a company should be expected to pay taxes, but there may be special circumstances—that this company is barely surviving, that it provides jobs for X number of people—and then of course one would have to take a different look at it. But that is my position. I want to make it quite sure that I cannot speak for the commission.

Mr McLean: During the election campaign there was a promise of minimum corporation income tax, speculation tax and inheritance tax. Since the commission is being appointed, there has been some discussion that they may be backing away from that commitment. However, the Premier denied that his government is backing away from that promise that there would be these taxes, and I want to know your view with regard to a minimum corporate income tax, and that is on all corporations.

Dr Kitchen: Again I would say, in principle I would be in favour of a minimum corporate tax, but I would say that there could be special circumstances why I could see that a company would not be expected to pay taxes. That really is what the question is, you see: What is a fair tax that should treat individuals and companies equally fairly?

Mr McLean: That is the one I have a problem with, because there was a great issue made of Tridel Corp and all these large corporations that do not pay tax and the small corporations that do not pay tax and they were all going to be taxed. And now we are hearing and you are saying that under certain circumstances, but that was never a promise that was made.

Dr Kitchen: I am saying that what I say is for myself. I want to make it quite clear that I am not speaking for the government nor am I speaking for the tax commission, because as I have said, we have not even discussed what our position is going to be.

Mr McLean: I defer any further questions to Mr Stockwell.

Mr Stockwell: Sorry about arriving late and maybe this question was asked. You say you speak for yourself personally, so I take it you do not have any party affiliation.

Dr Kitchen: I do have a party affiliation, yes.

Mr Stockwell: Oh, and what party would that be?

Dr Kitchen: I support the NDP.

Mr Stockwell: You do?

Dr Kitchen: I do.

Mr Bradley: Three for three.

Mr Stockwell: Let me explore that a little further. Would you have, say, supported them last election financially or by working for them?

Dr Kitchen: No. I live in the Oakwood riding and I did not support the candidate there.

Mr Stockwell: Oh. So you belong to the NDP but there are some candidates you do not necessarily support. You are like a Conservative.

Let me just go into maybe the history of the tax system. I assume you have held some views on this subject in the past number of years on fair tax and unfair tax.

Dr Kitchen: What I have done is I have studied and written on the impact of the personal income tax system on families with children and with particular reference to single mother-led families.

Mr Stockwell: Do you know anyone else who has been requested to sit on the commission? Do you know anyone else personally or professionally?

Dr Kitchen: The only person I know professionally is Neil Brooks, who is a colleague of mine at York University.

Mr Stockwell: Right. What about, say, this unbiased review that the government has been speaking about? Do you think that with your particular background and position statements in the past, it will be a truly unbiased review of the tax system, or do you think we are coming at this maybe with a little political bent on the whole process?

Dr Kitchen: I think that I was appointed for my expertise and knowledge on how the tax system impacts on families with children, and I would see my role on the commission to make sure that the concerns and the interests of families with children are reflected in a fair and equitable tax system.

Mr Stockwell: I have another question. I do not know if you know or not, but one of the members of the commission does not live in the province of Ontario. Does that trouble you at all, that someone will be commenting on the tax system for some 9 or 10 million people and yet does not in fact pay provincial taxes herself?

Dr Kitchen: I do not know who you are talking about.

Mr Stockwell: I am sorry. It is Giampietri, I believe, from Hull, Quebec.

Dr Kitchen: Oh, but as far as I know, she works in Ottawa, so her political life is involved in the province.

Mr Stockwell: Right.

Dr Kitchen: I would think that where she chooses to live is her—

Mr Stockwell: Is academic.

Dr Kitchen: —private decision. I mean, she—

Mr Stockwell: I see. So I will take it that it does not affect—

Dr Kitchen: No, it does not bother me.

Mr Sutherland: I was just wondering, could you tell the committee what you did your doctoral thesis on?

Dr Kitchen: Yes, Canadian family income support programs, which has one chapter on the Canadian tax system.

Mr Hayes: Dr Kitchen, I am looking at your résumé here and I am quite impressed, especially in what you have done in regard to dealing with child poverty. And I see that you were on the standing committee on health and welfare, social affairs, seniors and the status of women. That would be the federal, would it?

Dr Kitchen: Yes. The Child Poverty Action Group presented to the subcommittee on poverty on the issue of child poverty and, of course, we also talked about the impact of the tax system, which we feel impacts very negatively on families with children.

Mr Hayes: So I guess it would be fair for me to say that, you know, regardless of maybe the way some people look at this, that our goal really is to set this commission up and to have a fair tax system in Ontario. Can you elaborate for us on that, please, how you feel about that?

Dr Kitchen: I feel very excited about this, particularly that I was asked to sit on it, because usually social groups like the one I represent are simply left to respond after the action has already been taken. So I really welcome this as a wonderful opportunity and I just hope I can live up to it and I can contribute to the creation of a tax system in this province that is fair to families with children.

1020

Mr Wiseman: I am just looking at your education background: Simon Fraser, BC; University of British Columbia, BC; London School of Economics. One of the comments that has been made is that so many people live in Toronto, and I have been going through the résumés and I have seen that a large number of the candidates for this commission have been born and raised and educated pretty much all over the world, and I would like you to comment a little bit about your view of the world and whether you think it is a fair criticism that just because you live and teach in Toronto you have somehow lost your ability to have a wider world vision.

Dr Kitchen: I think in my case that is certainly not true, because, first, I am still in touch with some of the people I met when I was a student at the London School of Economics. I also regularly read the publications of the social security code published from Geneva—the International Labour Organization's publications—all dealing with social security issues. And as I said, my particular interest is the economic wellbeing of families with children. So I make it my duty to study. For instance, I know what the French tax system looks like, the Dutch tax system looks like and the German tax system looks like as regard to families with children. I can tell you they are considerably more generous when it comes to looking after the concerns of parents and children.

Mr Johnson: Dr Kitchen, I have read in the press and I have got the impression from other readings I have undertaken that in this province the wealthy aspect of our society is getting wealthier and they are paying not their

proportion of taxes; the poorer people are becoming more disenfranchised, they are becoming poorer; and the middle class is paying even more of their share of the taxes than have happened in the past. So we seem to be heading down the road of disparity, I guess you might say. Would you agree with that statement, and do you think there is still a chance where we can change that around and truly make the system more fair?

Dr Kitchen: I should hope so. That is what I see the task of the commission to be, and if I can be so presumptuous I will quote the motto of one of my alma maters, the London School of Economics, where social problems are treated as technical problems and therefore solvable if people have the political will do so. And the facts quite clearly indicate that what we have seen is a tremendous increase in the shift of taxes to particularly middle-income families, to the upper end of the poor, and a decrease in the higher income tax code.

I can give you a wonderful example from my own colleagues. As you know, academics are certainly not underpaid, but for the first time in my experience my colleagues are actually complaining about being overtaxed, and what really gets them is that most of them would now be paying the top marginal tax rates, above the net income of $55,000, and most of them I would say would be $20,000 above. And so what they are really objecting to is that they should be paying the top tax rate on the $20,000 above the $55,000 net when somebody who has $500,000 above or even $1 million above is being taxed at the same rate. And you see, that is where I am a great believer in using the sharp arm of the middle class. If the middle class is dissatisfied then there will be push for change and the poor will also benefit.

Mr Johnson: Just in your opinion—I think it is clear that the system has become less fair, generally speaking, so any direction that this committee takes would be in the interest of making it more fair.

Dr Kitchen: Absolutely. That is what the title of the commission is, you know, the Fair Tax Commission.

Mr Grandmaître: Dr Kitchen, being a tax expert, I am sure that also your commission will be asked to look at municipal taxes, property taxes, and being from Toronto, I am sure that you already know that Metro and municipal and also education takes a big chunk of your municipal taxes. Are you in favour of a Metro-wide reassessment?

Dr Kitchen: A reassessment of the property taxes?

Mr Grandmaître: Properties.

Dr Kitchen: Yes.

Mr Grandmaître: You are?

Dr Kitchen: Yes.

Mr Stockwell: You went up a few notches in my book.

Mr Grandmaître: Thank you. Very, very few people are. And I think you are going to make a great candidate. You will be a great member for that commission, because I—

Dr Kitchen: Can I just comment on this? This is a Fair Tax Commission, so everything is under scrutiny. We will look at the whole tax system and how it impacts on people in this province.

Mr Grandmaître: That is true.

Dr Kitchen: I do not think this is anything so amazing.

Mr Grandmaître: Yes, I think municipal taxes are a very, very important part of our taxation system, but I am surprised that a person of your calibre would be in favour of a Metro reassessment, because very few teachers or professors, very few tax experts, are in favour of a Metro-wide reassessment. So you must be one of the few that agrees that a change is needed, not only in Metro but right across the province of Ontario as far as reassessment or assessment is concerned.

Because in Toronto, as you know, we have not had a reassessment program since 1954. And I think it is very, very unfair, for people living in a $300,000 home paying the very same taxes as somebody who lives in, let us say, a $150,000 home. I think it is very unfair. Metro has never been in favour of a total reassessment program, so I am pleased to see that you are in favour of a Metro-wide reassessment program.

Also, being from Toronto or the Metro area, what are your thoughts on the commercial concentration tax that was introduced last year for Metro? What do you think of that? Your personal thoughts, now.

Dr Kitchen: In all honesty, I do not know anything about that. I cannot answer that question. If I did I would be bullshitting, and I will not do that.

Mr Grandmaître: Well, that gives you another notch. You would be a good commissioner.

1030

Mr Bradley: My questions are as follows. There was a promise that was made in the last election campaign about 60% of the cost of education being assumed by the provincial government and about taxation policies adjusted to do that. We had a guest yesterday, a proposed member of the panel, who was not certain now, as of this date in February, what that was 60% of, although a lot of people assumed in the past from the governing party that it was 60% of the cost of operating schools in the province of Ontario.

If you are particularly familiar with this, could you tell us what you believe that 60% is that the government was promising and that would require necessary provincial taxes to bring about?

Dr Kitchen: I can only again speak for myself. I had assumed it would mean 60% of the costs of operating schools, but that I do not know. I may be totally wrong. That is really an area I have not looked at in great detail.

Mr Bradley: That is something no doubt that the commission may be looking at, because we have not seen any movement towards that at the present time, so perhaps the government would like the opinion of the commission before it proceeds towards paying 60% of the cost of education. I would expect that we will hear some significant criticism, as we did when Conservative and Liberal governments were in power, of that shift away from that particular aspect.

We have already had a question from Mr Stockwell as to political affiliations. So far, three out the three people who have been interviewed by the committee have been members of the New Democratic Party or strong supporters of the New Democratic Party. Do you believe that a commission can truly bring about a fair tax system if an overwhelming number of the members of that committee come from a philosophical view which is the same and are supporters of the same political party?

Dr Kitchen: That is what I tried to say earlier on. You see, I am a great believer that there are technical solutions to social problems reasonable people can agree upon. There are certain issues that really go beyond partisan interests, and for one, I would think that regardless of what one's political colours are, the appeal of a fair tax system measured on the principle of ability to pay is not under dispute. People would agree that those with the greatest ability to pay should pay a larger amount of taxes than those who have less ability. In fact, I heard one of your colleagues say that. So I do not really see that this is going to be a problem. Besides, I also understand that maybe you have just had the misfortune to meet three or four people who are all supporters of the NDP, but there will be other commissioners who certainly are not.

Mr Bradley: I would anticipate that that would be the case, because everyone would expect that there would have to be some—it is like all government appointments; there are always going to be the token members of other political affiliations, but we know that this government is entirely different in its viewpoint and would not want to do that.

Since the government has already announced its plans for taxation, we have heard the proposals that have been put forward in the election campaign, previous to that in the Legislative Assembly, when it was not such a kind and gentle place as they would like it to be today, we heard promises of a speculation tax, of succession duties, of other taxes that would be applied. If indeed the government has already promised this and has made up its mind, do you not feel there is a danger that your commission is simply being used as either a rubber stamp or justification for the implementation of these taxes?

Dr Kitchen: I cannot answer that. I guess that remains to be seen, but obviously, if I am going to be a commissioner I would do so in good faith, having confidence that the government will consider the recommendations put forward by the commission. But that is really what I as an individual member of the commission could expect, but obviously I would be very disappointed and, I am sure, so would be other people on the commission, that, why are we then asked to put in time and effort if what we come up with is going to be ignored?

Mr Bradley: The other choice I guess would be, if that would not be the case, that it is simply being used as a rubber stamp for justification for what the government has already decided, and this eminent group of individuals—and I think if we looked at the curriculum vitae of each of the individuals we would find that they are people with considerable background, including yourself, considerable and impressive background in many areas of endeavour, that might well be something that we in the opposition may feel would be the case. But there is another choice, I suppose, or another contention that is put forward, and that is, if not for justification, that the commission is simply an excuse to delay the implementation of what the government feels are the appropriate taxes in the first place and some of you people on the commission may feel are important. Do you see a danger that these much-needed changes that the government talks about in fact will be delayed considerably by the lengthy deliberations of your commission?

Dr Kitchen: From what I understand, that is not going to be the case. In the literature that was given to me to prepare myself for what is expected of me as a commission member, I was told that the government would be willing, if there is already legislation in place and the commission comes up with recommendations that would run counter to the policies that have already been implemented, to change the policies. I have served on other committees, and one has to have a certain amount of confidence that one is going to be heard. Otherwise I would not be willing to serve on the commission.

Mr Bradley: Looking at your background and some of the work you have been involved in—board member of the Social Planning Council of Metropolitan Toronto; founding member and steering committee member of the Child Poverty Action Group; member, the social action committee, Family Services Association of Metropolitan Toronto, and so on—one would expect that you have a good deal of sympathy with people who are in a disadvantaged position, and a lot of your work has been dedicated to assisting those people in one way or another, either through your professional work or perhaps on a personal basis. We still face a situation in the province of Ontario, nevertheless, that we have to create wealth in order to redistribute the wealth, and we have to remain competitive. How important do you believe it is that, when your commission emerges with its report, that report reflect the need to understand and take into account the international competitiveness of the province of Ontario?

Dr Kitchen: From the way you have phrased your question I take it that you see that there is a contradiction between the interests of, let's say, a big business or a small business, the business world, particularly the companies that compete on an international market and the interests of particularly low-income poor families in this province. I would probably argue that at the moment, particularly since we are at a crucial stage where Canada as a whole and this province in particular have to secure themselves a competitive place within the international economy, we also simply have to take into consideration what is happening to our families.

I would argue that we cannot afford that 30% of the high school students in this province drop out before they even graduate with a high school diploma. No country that is going to survive in an international competitive market can afford to lose 30% of its population. We are not just losing their talents and what they might have contributed;

they are also going to cost us, ranging from social assistance to keeping them in jail. Why would we create such an unnecessary social expense when we can prevent it? I always use the European examples. If you look at Germany, one of the economic giants, it has a conservative government which has a wonderful social program package. It has not interfered with their competitiveness at all.

1040

Mr Bradley: I guess what I am looking for with the members of the committee is how much concern they would pay to the competitiveness of the province of Ontario compared to others.

For instance, you mentioned big business. I would not know very much about big business. I come from a genuinely labour background—labour union background—and low-income background, and have never been in a position of privilege—outside of the privilege of serving the people of Ontario as a member of the cabinet for five years, I suppose—in this province, and my natural instincts as a person coming from that background would be of course to tax the hell out of the rich and to ensure that the wealth was redistributed.

On the other hand, when I talk to my neighbours who are members of labour unions, who know that their jobs depend on international competitiveness, they express their concerns by saying, "Please don't make our industries uncompetitive by some drastic changes to the taxation system."

I realize it is a very difficult balancing act to meet both our social obligations and to keep us competitive, and I guess my concern is: Do you feel that the commission will be keeping its eye on the competitiveness of the province of Ontario as compared to other jurisdictions, in an economic sense?

Dr Kitchen: When I look at what a tax system is supposed to do, it is supposed to raise revenue, and obviously you can only raise as much revenue as there is revenue to be raised. So before you can tax, companies have to be able to earn, just as people have to be able to earn. And so I cannot imagine that the commission would not take that into consideration.

The Chair: Mr Bradley, I know you want to be courteous to your caucus colleagues, and Mr Sola has indicated—and you only have about two or three minutes left of your caucus time.

Mr Bradley: I will let Mr Sola ask questions.

Mr Sola: Dr Kitchen, I would like to revert back to the theory of Toronto privilege or the overwhelming number of members of the commission being Toronto-oriented, and two things come to mind.

First of all, the fact that the previous government introduced a lot of tax measures that were aimed particularly at the GTA area, sort of a pay-as-you-go plan, you know, to pay for the transportation that was planned for this area, both public and roads, and the commercial concentration tax that was mentioned—transportation.

The other thing is that one of your members has great experience in education, but with the Toronto board. Her experience is vast, she really knows her subject, but the problems that she encountered and is encountering in the Toronto board would be considered manna from heaven by other boards. When other boards look at the assessment base of the Toronto school board and that, other boards can just dream of something like that. So when she brings her expertise, and especially in this realm, if the rest of you do not have expertise in that area, will that not somehow disregard the problems throughout the rest of the province, because they will be concentrating on solving the problems for Toronto, or at least give the appearance of doing so?

Dr Kitchen: I can only speak for myself, and I would say what I have published has always been—I looked at the Canadian tax system in general and I have always used Ontario as an example because the majority of the people in this country live in this province. So if you want to make a tax point, Ontario is a good case example to use. So, as I said, my own interests are certainly not limited to Metropolitan Toronto. Actually, next week I am going to speak to a group of teachers in Belleville. Next month I am going to Vancouver to speak to the British Columbia Teachers' Federation. You know, all these groups have an interest in the impact of the tax system on families with children. There is a real concern, not only in Metro, but I think in all parts of Ontario, in all parts of the country, that the situation, the economic health of families with children, at the moment is really not so great and something needs to be done about it.

Mr Sola: Yes, that's right, but still, the problems within Ontario are not uniform. There are areas in Ontario that fall behind in certain respects to the problems in the greater Metro Toronto area, as areas of Canada fall behind Ontario as a province. And my concern is—as an academic, you may be able to sort of approach it from an arm's-length position and spread the experience around to take into consideration how somebody up north feels, or how somebody in eastern Ontario is experiencing this recession, or just the economic situation over there, or southwestern Ontario. But the perception of the public at large will be that you, and perhaps seven or eight of your colleagues who either live or work in Toronto, are affected by both the tax structure and the advantages and disadvantages of living in this area, and that your recommendations will be seen in the light of trying to solve the economic problems more for this concentrated area than for the vast area beyond the boundaries of Metro Toronto.

Dr Kitchen: I would counter that by saying that really depends on the particular tax issue. If we are talking about the personal income tax, you see, that applies right across the province; if we are talking about property taxes, that is obviously localized and there are differences. But I take your point and I really do not think that it is going to be a problem for the commission, because I understand we are going to have research support. There is also envisaged broad consultation with people of particular interests and I for one would want to make sure that people from all parts of the province will be heard, because after all, that is an issue that concerns everybody regardless where you live.

Mr McLean: I have a couple of questions. I have paid a lot of attention to the people who have been recommended for the commission. The majority of them, almost

all of them, have lived off the public purse, taxation. I do not believe there is one person who has had to meet a payroll—there may be one. How can a commission, dealing with the business community, with all aspects of taxation, that have not met a payroll, say what is going to be a fair tax.

Interjection: Absolutely.

Mr McLean: How can that commission operate in a vacuum?

Dr Kitchen: I would not say that the commission is going to operate in a vacuum. That actually sort of feeds into an earlier question, you see. You are setting up almost a conflictual situation between the so-called productive sector and those who are wage and salary recipients, and I think maybe that is what is wrong with looking at the whole situation. Maybe we should try to get away from this oppositional, conflictual attitude and try and work co-operatively. After all, business needs workers, workers need employers. Why do we have to look at each other as enemies?

1050

Mr McLean: So what you are really saying is, or what the Premier, I guess, who has appointed them, is saying, "We are going to ignore these people and we are going to bring in a group of people that is going to indicate..."

Dr Kitchen: How can you say that they are going to be—

Mr McLean: Then why are they not on the committee?

Dr Kitchen: As far as I understand, there is somebody representing business, is there not? After all, you have one person representing, I think, business, you have a person representing small business and I am representing, let's say, poor people. That is fair, is it not?

Mr McLean: I guess the question that I had was who is on the commission that has met a payroll. You can represent a business. I see lots of professors and lawyers, professional people on the board, but I do not see any ordinary working individuals.

Dr Kitchen: I thought there was Mr Blundell. Is he not with—

Mr McLean: He is with General Electric Canada.

Dr Kitchen: Yes.

Mr McLean: But has he met a payroll?

Dr Kitchen: Does GE not—

Mr McLean: The company does.

Dr Kitchen: Yes.

Mr McLean: The company meets it.

Dr Kitchen: Is he not responsible for—

Mr McLean: But there is a difference to being a president of a company than writing a cheque out of your own bank account. And there are a lot of people who write cheques out of their own bank accounts and not out of a company bank account, and there is a big difference.

Dr Kitchen: Is Jayne Berman not—does she not have to meet a payroll?

Mr McLean: We will see when she comes. One of my final questions is, the discussions that you have had, if any, with regard to how much pay the commissioner is getting; do you know?

Dr Kitchen: How much pay is the—

Mr McLean: How much per day or salary will you be receiving? Do you know?

Dr Kitchen: As far as I remember, I was told that there is a per-diem rate of $200.

Mr McLean: $200 for members?

Dr Kitchen: Yes.

Mr McLean: Thank you.

Mr Waters: I just have one question, Dr Kitchen, and that was—and I think we started down this with the previous question—I wanted to know how you feel when you look at the committee, the makeup of the whole committee. Do you think that it would be able to create a fair and balanced report back to the government of representing the province?

Dr Kitchen: Absolutely, because when you look at the people who are appointed to the committee, you have to have people who have at least a basic understanding of tax issues. You cannot just take somebody off the street and say: "We want to have a Fair Tax Commission, come on and be part of it." You have to have people who have some background knowledge, because these issues are very complex, and in their detail, sometimes I feel almost overwhelming. So I think what I see is a group of people brought together who have different interests, different concerns, but together, they reflect the makeup of the province, the different interests of the province.

The Chair: Doctor, I would like to ask you a couple of quick questions. You mentioned, in response to something Mr Bradley asked you earlier, about the government perhaps bringing in new taxes during the term of the commission, and I had asked the new chair as well about this, how you would feel as a commissioner with a mandate to develop recommendations for a fairer tax system for Ontario. If the government, during the course of your deliberations, brought in a new tax, we will say a minimum corporate tax or a speculation tax, how would you as a commissioner view that? Would you have any concern about those kinds of initiatives being undertaken while you are in the midst of a review?

Dr Kitchen: All I can say is that we have been assured if the commission comes down with a recommendation, that we will be heard. The government is the government, it makes its decision.

The Chair: But what kind of message would that send to you as a commissioner?

Dr Kitchen: I would say that we would be disappointed, obviously, because if we put in time and effort and we come forward with a proposal that is then totally ignored, or we are told that we are absolutely wrong, then of course we would be disappointed. Who would not be?

The Chair: Okay. Another quick one, we have a few minutes left. In one of your contributions you made in the discussion paper in respect to the deficit, "Ending Universality Won't Cure The Deficit," which caught my eye, what in your view will cure the deficit? And I would like

to hear your observations in respect to the deficit. How do you view the deficit? Are you concerned about the growth of the provincial deficit, those kinds of things? Can you comment on that?

Dr Kitchen: I was not talking about the provincial deficit, I was talking about the federal deficit, because in all fairness I have to admit that my major concern has been with the federal tax system. That particular point was that Marvyn Novick and I costed how much was going to be saved by doing away with the universality of family allowances and the savings were something like $550 million. We did not think that would make a big bang in terms of—

The Chair: I am trying to get some more specific answers out of you. You know, a lot of academics of your political persuasion have different views in respect to the deficit. How important is the deficit in respect to its impact on the economy? I guess I would like to hear your views in respect of the provincial deficit.

Dr Kitchen: The deficit is certainly very serious. There is absolutely no way that we can ignore the deficit. I mean, there is no country in the world that feels comfortable with a huge deficit. The deficit has various aspects, it affects poor people the hardest because, if I am wealthy enough and I hold treasury bills and Canada savings bonds and I actually earn interest off the deficit, I am not nearly as much affected as somebody—I am positively affected.

Look at lower-income people. You see, we cannot bring in the kind of social programs that are needed and so I would say we do have to address the deficit. You wanted to have a concrete answer, my answer would be to put people to work, see that they pay taxes. Anybody in the workforce pays taxes. They become assets instead of costs and social assistance or unemployment insurance. So, put the province to work.

The Chair: One more quick question. There has been some talk after the transfer payment announcements the other day that the Treasurer may be looking at increased taxes with this budget coming up this year. How do you view that with a deteriorating economy, a government increasing taxes during that kind of an environment? How do you view that possibility?

Dr Kitchen: I guess it would be the question, what taxes are being brought in? Who is going to be taxed? One thing we know is that opinion poll after opinion poll has shown that Canadians feel that the personal income tax system plus the consumption tax, in particular the GST, is very unfair and it is highly unpopular. So any government that brings in more taxes on personal income tax, raises sales taxes, I think would be in for a very rough awakening. People have had it.

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The Chair: I was not looking at it from a political perspective. I was looking at it from, perhaps, the economic impact, how you feel that sort of an issue might impact on the economy generally, that is all. I gather you feel it would be negative.

Dr Kitchen: We need more spending power in the hands of people. If you want to move the economy, people have to be able to buy cars, so General Motors can produce cars. If you have a grocery store, you want your customers. People have to eat. That is how you keep things going.

The Chair: Okay. Thank you very much. We appreciate your appearance before the committee and we wish you well with your new responsibilities.

Dr Kitchen: Thank you.

WILLIAM BLUNDELL

The Chair: The next witness to appear before the committee is William Blundell. Mr Blundell, would you like to come forward, please. Welcome.

Mr Blundell: Good morning.

The Chair: Would you like to make a few brief comments before we open the floor to questions?

Mr Blundell: I really have very little to say, other than I see this particular activity as a priority of the government and I am very pleased to bring whatever talents I can bring to bear on this problem. I come with an open mind.

The Chair: Okay. We will begin the questioning with the official opposition. Mr Grandmaître.

Mr Grandmaître: I am sure you had a chance to listen to our last guest.

Mr Blundell: No, unfortunately, I missed most of that.

Mr Grandmaître: Oh. We were talking about the deficit, not only of the province of Ontario but the federal deficit. Do you think this will impose some constraints, or restraints, on your commission, the fact that the federal government's deficit is increasing? The transfer payments from the federal government are affecting not only the province of Ontario but every province in Canada. Our Canada assistance plan is being affected, our transfer payments for education and social services, all of these great universal programs are being affected.

Do you think that you people, your commission, can come up with a reasonable compromise without really taking into consideration the lack of federal assistance to provincial governments? How can you arrive at a conclusion, at a recommendation, without looking at the present situation at the federal level? Because, as you know, we all depend on the federal transfer payments. Will you be travelling to Ottawa to talk to Mr Wilson and to others responsible for taxation in Canada?

Mr Blundell: There are a lot of questions there. I guess whether or not I will be travelling to Ottawa will depend on—

Mr Grandmaître: I think you should. That is my question.

Mr Blundell: Yes. If your question is really directed at whether or not I am concerned about the level of the federal deficit, I am one of those who is very much concerned. I just feel very strongly that that is a very important constraint that is out there in addressing any kind of an issue on taxation.

Mr Grandmaître: Let's rephrase my question. The fact that the federal government is cutting back on what

seems to be very, very important to this province—that is, health care, education, social services—do you think this will hamper you to make a decision or recommendations, the fact that they are cutting back on their transfer payments to this province? How can you arrive at a conclusion without taking the federal government lack of transfer payments to this province?

Mr Blundell: I just think that it is a reality that one has to work with when one approaches this kind of activity. I mean, it is reality.

Mr Grandmaître: You say it is reality, and I agree with you. How can you make a recommendation to this government when you know that our federal deficit is increasing daily? How can you arrive at a conclusion that will really serve this province when you know and I know that we depend on the transfer payments from the federal government? I do not have the answer.

Mr Blundell: But I think any time that you wade into any kind of an issue or a problem, frequently there are parameters out there that are givens, and I think that is a given. I guess there is no question, to the extent that that given can be challenged, that it should be done. And I think that is something that should be challenged. I am very concerned about the fiscal situation of Canada.

Mr Grandmaître: I must say that I agree with the Premier of this province when he says that we have to look at our economy. That is his number one responsibility and I agree with him, but at the same time I think we cannot look at this province in isolation and I think that is what really worries me about your commission. You will be looking at Ontario. I know that 65% of all industrial taxes are coming from this province. I know that 45 cents of every income tax dollar in Canada comes from the province of Ontario. Realizing all of this, if we want to be successful in Ontario, we cannot bring about this success on our own. We need the assistance of the federal government. And what I am trying to get at is, how closely will you be working with the federal government?

Mr Blundell: I think I know where you are going on this. There is no question that recommendations can be contexted in the overall Canadian scene, and no question that to the extent that constructive inputs can be made to the federal government as part of a package that this commission, as I see it, would come up with, I would say that it would be very constructive and I would support that.

Mr Bradley: Are you serving on any other committee appointed by this government?

Mr Blundell: I am on a small ad hoc committee that is advising the minister on the de Havilland issue. I am, with the support of the Minister of Health, chairing a small committee in Guelph which is attempting to deal with the redevelopment of the hospital situation up there.

Mr Bradley: So they are not the kind of onerous responsibilities that would keep you from this.

Mr Blundell: No, no. The first one is strictly a project and the other is a little bit more of an ongoing project.

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Mr Bradley: If a significant majority of the members of this committee are members of one political party and supporters of one political party and philosophically in gear together, do you not feel that the committee is likely to come up with recommendations which are geared in that direction, and any who did not belong to that party or did not have that philosophy are likely to have their views put on the back burner, at the least?

Mr Blundell: Well, I guess my understanding, or at least certainly as it was presented to me, is that we were to come forward as individuals with open minds. And I would expect that of fellow commissioners.

Mr Bradley: The government has already made its promises and suggested the areas in which it is moving in terms of tax changes, in terms of tax increases and some changes, perhaps some reductions. If the government has already made those announcements and has commitments, which it obviously would not want to break to the people of the province of Ontario since we know that it is a government that was elected on that basis, would you not feel, again, that the commission's results are likely not to be particularly significant—the results of deliberations of the commission—if the government has already made those commitments?

Mr Blundell: Yes. Obviously I would not be on this commission if I thought that way. My understanding is that the government has put out certain propositions. I guess it is my expectation that if the work done by the commission would counsel the government to modify or repackage its proposals, then I would expect the government would do that. Obviously I am not here unless I think there is going to be an honest examination of the proposals.

Mr Bradley: And the fact the government has already made announcements in this direction does not lead you to believe that the commission's report will either be there to justify what the government is doing or will collect dust on some shelf?

Mr Blundell: Absolutely. If I believed that, I would not be here. I have many other things I can do with my time.

Mr Bradley: You are a person from the private sector; is that correct?

Mr Blundell: Yes.

Mr Bradley: And your paycheque would have come from the private sector in your days of employment. Is this the first person—I am just wondering.

Anyway, asking that question, it leads to competitiveness of the province of Ontario as compared to other provinces. And while we try to synchronize our efforts in this country, there is still a certain amount of competition that takes place between provinces, and we look carefully at what other provinces are doing in terms of their taxation, if we are wise. Also, of course, the United States is very close, and individual states, and now we are talking—at least the federal government is talking—to Mexico and the international trade barriers are coming down. How much emphasis, when you are dealing with matters of taxation,

will you place on maintaining or perhaps enhancing the competitive position of the province of Ontario when you are involved in your deliberations?

Mr Blundell: I would say that in my view competitiveness is the overriding priority for everybody in Ontario.

Mr Bradley: And the viewpoint that you would bring to this committee would certainly reflect that.

Mr Blundell: Yes, and I passionately believe that.

Mr Bradley: A question has been asked, and we are asking it, I suppose, of each of the members, and perhaps we will wear it out by asking it every time, but we have looked at the composition of the committee in terms of its philosophical background, its political background and its geographic background to a certain extent. I believe eight out of the 10 members either reside or work in the city of Toronto; one lives in the province of Quebec.

Dwelling on the Toronto connection, first of all, and perhaps I will deal exclusively with the Toronto connection, and you have been involved in business and a resident of the province of Ontario, do you think that perhaps it would be wise—I am not saying you would take some people off the committee—to add to the committee people who are not residing or working in Metropolitan Toronto almost exclusively, recognizing—I recognize it is—

Mr Blundell: No, that is fair enough.

Mr Bradley: —the financial capital of Ontario? I mean, there is no putting that aside. But we have one person from Sudbury, one from Hull, Quebec, and the rest seem to be either living or working in Toronto. Do you not see a danger that that may skew in just some way the deliberations of the commission and the ultimate report of the commission?

Mr Blundell: It is my understanding that the intention of the process is to have fairly broad-based consultation across the province. So I am personally satisfied that there will not be a skewing or a bias towards sort of a Toronto mentality. So I feel comfortable with the makeup of the commission. That is not an issue in my own mind, if that is what your question is.

Mr Bradley: We would look at this commission, and the government uses the term Fair Tax Commission. I call it the NDP tax commission. If you had a Liberal government you might call it the Liberal tax commission or the PC tax commission. That is my use. I just do not like governments using those terminologies and, of course, I expect that others will not be repeating those, although I do not think I have been very successful in that regard because the government has been successful in having others call it the Fair Tax Commission. So, so be it, I guess, at least for one year.

Looking at your background and what you bring to the commission, I ask you this question. There is a lot of talk of redistribution of income. How much emphasis in the deliberations of the commission will you place on the creation of that wealth to redistribute, as opposed to simply spending a lot of time giving up what is in existence at the present time?

Mr Blundell: Yes. I sort of have a strong bias towards the creation side. I think that if we are really going to be a player in this dramatically new global world, then we must first focus on being competitive and creating wealth before we argue about who gets what piece.

Mr Bradley: My last question is a hypothetical question, which you can say is a hypothetical question and you will not answer it, if you want to. I understand that because I used to say sometimes they were hypothetical questions and I would not answer them. So that is fine.

Mr Blundell: I may give you a hypothetical answer.

Mr Bradley: That is probably the best answer as well. Let's say the commission were to sit for a year and it was obvious that the commission was going to end up in one specific direction or a predestined direction in particular and that your contribution to the committee was not going to be received with any degree of importance. Would you resign from the commission or submit a minority report?

Mr Blundell: Obviously I would not be going into this if I did not feel that I could make a contribution and that contribution would have some impact, and I guess I would deal with your hypothetical question at such time as I had to confront that.

Mr Bradley: That is a fair answer. Thank you.

The Chair: Mr Bradley, would you allow the Chair a supplementary? This is natural, Mr Blundell: Why do you feel so confident about that? Why do you feel that way?

Mr Blundell: I think that certainly from having worked in business over the years we have waded into a number of issues where, going in, we did not know the answer, and where we have been able to assemble a bunch of people who were open-minded. I would say that generally we have come out with a solution that has been acceptable. So I am a believer that open-minded people, given good, honest facts, will come to good, honest solutions, and I have confidence in the process.

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Mr McLean: Mr Blundell, who approached you to see if you would sit on this commission?

Mr Blundell: I was approached by the gentleman sitting right back there—by phone.

Mr McLean: And who is that gentleman?

Mr Blundell: It is Simon Rosenblum.

Mr McLean: And did he go over the details of what would be expected of you?

Mr Blundell: Yes.

Mr McLean: And what office does he work out of?

Mr Blundell: I am not sure, to be honest. Are you connected with Treasury, is it? Yes, sorry about that.

Mr McLean: He is with the Treasury.

Mr Blundell: Yes.

Mr McLean: Thank you. Were you chief executive officer of General Electric when the Barrie plant closed?

Mr Blundell: Yes. Although it was not closed, of course, by GE Canada.

Mr McLean: The indication from the government is that it would like to institute a minimum corporate income tax. How do you feel that would have an effect on industry in Ontario?

Mr Blundell: I guess we would have to understand what the design of that tax is to give you an answer. My understanding is that what is being looked for there is that, if enacted, it be a fair minimum corporate tax. I understand from that that it would be fair among corporations. So we are all ready to look at that. We will be bringing to that the perspectives that we mentioned.

Mr McLean: The Treasurer has made the statement many times that there are hundreds and hundreds of corporations that are not paying tax. Do you believe that is a true statement? For what reasons would they not be paying corporation tax?

Mr Blundell: I guess they are not paying tax if they are in a situation where either they have no earnings or they have capital cost allowances that reduce whatever their statement at income is to a tax loss position. That can be good—and it can be bad, I presume.

Mr McLean: I am pleased to see the experience that you have had, and you will be an asset to the commission, I am sure, because there are very few from the business community on the commission. The other question, I guess, that I would have, is: Has the salary been discussed with regard to the amount of time that you would be expected to spend on the commission?

Mr Blundell: I am prepared to serve without salary. The reality is that coming out of the private sector in the kind of circumstance that I have been in with a lot of exposure, my choices are to do something else in the private sector. I guess my personal feeling is that the system has been very good to me, and to the extent that I can contribute back in the system I am really pleased and honoured to have that opportunity.

Mr McLean: You are probably semiretired and busier now than you have ever been.

Mr Blundell: I am working five full days a week. I have got a fax machine at the house that chatters away all day and a telephone box—there is lots to do.

Mr McLean: Just one last question. I said to the previous person who was before us that, to my knowledge, there was nobody on the commission who has met a payroll of his own. I got a few snickers in the back because—whether they do not feel that is important or not. But I feel it is very important that somebody who has written cheques out of a payroll on his own bank account should be an asset to the commission. And obviously there is nobody appointed from that area of business.

Mr Blundell: Yes. Let me just say that I have been in the situation where I was chief executive officer of Camco Inc, where the partners withheld any guarantees and where we ran out of money and had a call from the bank. So I have lived with a group of employees through a situation where we were faced with bankruptcy and had to go to our suppliers to carry us until we could—and also everybody in the company, myself included, worked without pay for a week in order to—so I have been there. Despite the fact that I have worked all my life for a big company.

Mr Stockwell: I feel like I am there every payroll. I asked this question to everyone, actually. I will ask it to you as well because I think it is important that we get on the record exactly how unbiased and open-minded this commission is. I have a great deal of difficulty believing or buying into the processes here today; that is no secret. I think it is a bit of a charade. I also think it is a bit of a charade when they strike the NDP tax commission, because the commission is, in my opinion, overloaded with card-carrying members of the New Democratic Party. So I will ask you as well: Do you have a party affiliation?

Mr Blundell: I do not have a party affiliation.

Mr Stockwell: Okay. Well that pretty much stops it there. So this then makes you the first, so far, and only person who will sit on this commission that in fact comes with at least no political baggage.

The second question I have is, what about that comment that I made with respect to fair, in the sense of unbiased starting point? You mentioned that in business you have come into a problem where you have had little or no information and you assemble a group of people together to come to a rational, sane business decision. Do you think it is slightly more difficult with so many of the members who are recommended being from a specific political party?

Mr Blundell: I guess either you believe that they all come with open minds, or you do not. I come feeling everybody comes with open minds.

Mr Stockwell: Have you had any experience other than your experience in business with respect to the tax process and the tax situation in this province, and possibly this country? I mean, could someone ask the question, do you believe in a succession tax that continues to go on—death tax, they call it in essence—wealth tax? I mean, do you feel reasonably knowledgeable on these subjects, that it will not be a long learning process?

Mr Blundell: Being honest, I do not have a lot of background in the—certainly in the mechanics of taxation, and so it is going to be a learning process. I certainly have access to people who could help me with that if I felt I needed it.

Mr Stockwell: The other question I have, and the last one, Mr Chairman: the party in power made a number of promises, a number of promises that are categorically impossible to fulfil. I think even they will admit that today, on some of them. I have seen this commission struck—because previous to gaining power they had all the answers for all the problems and they were never, never backward about telling you what the answers were. Since gaining power they have had a serious memory loss, so we have now struck this commission to, I guess, rekindle their memory.

The question is, from the campaign that was waged in August—and I assume you had some kind of background and knowledge of it—did you feel there were any particular promises that this government made that you find very difficult to understand how it made them, or how they

could be fulfilled? I guess that is the best way of putting it. We went through a great, long process here. A lot of promises were made that I personally think are impossible to fulfil. What is your feeling? Are we striking this Fair Tax Commission or this NDP tax commission to justify why they cannot fulfil them, and where do you stand with respect to some of these promises that were made? Are we simply wasting our time?

Mr Blundell: As I said earlier, I personally stand for fiscal responsibility and I guess we take it from there. I do not have any particularly strongly held views in terms of which of the government's policies I think are good or bad. Obviously, when you add up all of the promises in every election campaign, probably some are not affordable.

Mr Stockwell: Okay, thank you.

Mr Sutherland: You are quite comfortable, then, with the composition, the individuals, the other individuals who are serving on the commission?

Mr Blundell: Yes, and I have had an opportunity to meet the proposed commissioners and feel comfortable with them as a group.

Mr Sutherland: I was wondering if you could maybe give us some sense of how you define fairness, particularly in the taxation system? Or is that still something up in the air as far as you are concerned?

Mr Blundell: To be honest, I had not given that a lot of thought. I guess the only notion I have coming in is that that is one of the things we pursue for ever. As times change, we strive to have a society where everybody gets a fair chance, fair treatment.

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Mr Sutherland: Mr Bradley mentioned the issue of competitiveness and taxation, and there is certainly a sense that taxation is one of the issues affecting competitiveness. I was wondering if you could comment on how important it is. There are some people who seem to believe taxation is the only issue that determines your competitiveness as a province or as a country as a whole. There are others who think there are many other issues and taxation may be, in range of importance, one of the lower areas. I was wondering if you could comment on that.

Mr Blundell: I think taxation certainly can play a prominent role in investment decisions. But the reality is that competitiveness is much more a function of how the corporation and the people that make it up are organized and apply themselves.

Mr Sutherland: Okay, just one other question. I notice that you have had directorships on companies such as Alcan and Amoco Canada Petroleum and I think it would be fair to say that those companies or those industries, at some time, have come under some scrutiny for their environmental record and one of the issues that the commission is mandated to look at is the possibility of green taxes and that. I was wondering if maybe you could comment on that area. Are we at the time, and if not taxes, how do we pay for environmental cleanup?

Mr Blundell: First let me comment that, certainly in connection with those board activities, the directors spend more time asking for information and plans and commitments from managements on environmental matters than any other issue. I have heard arguments about making the market system work to promote environmental cleanup. I guess I have heard some arguments from the taxation side but I, frankly, come in pretty ignorant in that area.

The Chair: Anyone else from the government caucus? Mr Wiseman?

Mr Wiseman: You have responded to one of my questions for Mr Sutherland. Do you feel that a progressive tax system is possible? Have you given that any thought?

Mr Blundell: Could you define a progressive tax system for me so I do not misunderstand?

Mr Wiseman: Traditionally, a progressive tax system has had people who are best able to pay paying taxes and those who cannot pay or are in dire straits, living below the poverty line, do not.

Mr Blundell: That is what we have now, right? Or—

Mr Wiseman: Is that your comment on what we have now, or—

Mr Blundell: No. I just wanted to be sure. I mean, you can get trapped on semantics here. My understanding of what a progressive tax system is is that those who can afford to pay more, pay more, and I thought that was part of the Canadian ethic. I think there is another issue, maybe, and I was not sure whether you were sort of heading more in terms of below the poverty line, how that group of people is treated. I guess I have to say I am sympathetic to the needs, that you have to recognize and respond to the situation those people find themselves in.

Mr Wiseman: I would like to go down just a little different road—

Mr Blundell: Okay.

Mr Wiseman: —more in line with your background as an engineer and as a CEO to a large company. Do you see any way or have you had any contact with the way the tax system in Ontario is structured or can be structured to encourage research and development?

Mr Blundell: Have I been involved in any discussions? I was on the Premier's Council with the previous government, and there were some recommendations made to stimulate research and development which really were not tax driven. They were more sort of seed money by the way of grants. I see research and development, again, as a priority in terms of getting that kind of activity running at a faster rate in Ontario, and I think the tax system is an option we have to promote that.

Mr Wiseman: Who owns the R and D in a multinational corporation?

Mr Blundell: That is a very complex issue. Some kinds of R and D are owned by the home country, any kind of R and D that is government-sponsored. If R and D is performed in Canada and in some way partly funded by the Canadian government, that research belongs to Canada. It has to be exploited to the benefit of Canada.

Mr Wiseman: But, if a tax, if a grant was given to a multinational corporation and they did the R and D here, is it possible that that R and D would then be controlled by the head office in a foreign country and that all patents and royalties paid on that would be accrued to that country as opposed to Canada or Ontario?

Mr Blundell: It depends entirely on the terms under which those grants were given. Frequently there are constraints placed on what is done with the results of any development of that type.

Mr Wiseman: With respect to this commission, do you have any expertise in this area that you would be bringing to this commission in that specific area.

Mr Blundell: As far as the research and development?

Mr Wiseman: Yes.

Mr Blundell: Obviously, I have worked for a high-tech company and over the years we have been involved in a number of discussions where ownership of technology has been an issue. I would hope that I could bring some perspectives on that and knowledge, probably more so than most in terms of the multinational company management structure.

Mr Wiseman: Would you be prepared at this time to perhaps share your view of what you would be suggesting to the commission with respect to taxpayers' money being given to multinational corporations with respect to research and development grants?

Mr Blundell: I really do not have a view at this time.

Mr Wiseman: Thank you.

Mr Sola: I would just like to get back to the progressive tax system in one short question. At what point do you think the progressive tax system provides a disincentive to initiative? You hear hourly-paid workers saying they turn down overtime because it all goes to the government. You hear people saying they refuse to invest because they are putting all their effort into a project or something and the government is receiving all the benefits. Where do you think the fine line is, that the government gets benefits and the worker or the entrepreneur still get benefits from the progressive tax system?

Mr Blundell: You have got real easy questions here. I guess you never know until you have gone too far. There is no question the tax system can be a tremendous disincentive. I worry about Canada losing a lot of its very talented people, because one of the things you have to realize is that we are in a global world. When I started to work for Canadian General Electric I thought in terms of always working in Canada. Not so with this generation. When I look at our son—our son is working in Europe, and when you hear these young people talk today, they are very sophisticated. And it is a factor in terms of—he works for a Canadian company. But they are very sensitive so that if it is too regressive, too progressive or whatever the term is, it can be certainly a serious disincentive. And I think it is the same to the people on the shop floor.

Mr Sola: So you do not have a definite point of view because, in speaking to small businessmen in my community, in my riding, they are getting to the point where they say you almost have a black market here in a cash economy. Certain people will do certain small jobs for cash because they have either social benefits that they are collecting or the pay scale is not high enough for them to make a living just from that one job. And also, I am thinking back to an article I read a few years ago concerning Italy when you mentioned Europe. And it seemed that whenever the European countries got together, Italy had to send two economic representatives, one from the legitimate economy and one from the black market economy because they were almost on a 50-50 basis. I would like to avoid that situation here in Ontario and in Canada; I am just wondering where that point would be.

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Mr Blundell: As I say, I would have to give that a lot more thought to even attempt it. The only thing I can say is that you know when you are there, when people have lost their incentive. I guess I would be sensitive, personally, to any work that is done in the tax area in terms of how that would impact on how people would go about doing their jobs.

Mr Grandmaître: Did I hear you say that you had an opportunity to meet the rest of the commissioners, your colleagues? What was the occasion?

Mr Blundell: It was an informal sort of get-together. There was no meeting, it was just a chance to see what they looked like and—

Mr Grandmaître: No specific mandate was given to you?

Mr Blundell: No, no. As a matter of fact we were very specifically lectured on the fact that we were not commissioners, that we were proposed as candidates, and they thought that they owed it to us to see what the other people looked like that were in this same boat. I thought it showed a lot of good judgement and courtesy.

Mr Grandmaître: But you were surprised when you learned that you were part of the Premier's Ontario International Corp but you were not appointed yet.

Mr Blundell: No, no. That was explained to me at the time I was approached.

Mr Bradley: It is a pretty safe bet.

Mr Grandmaître: Pretty safe bet, yes. If I can follow up on Mr Wiseman's R and D and manufacturing questions. Your previous colleague told us that the best way to fill our taxation responsibilities as individuals—first of all we must provide them with work, and I agree with this. I think if you want to pay income tax or—everybody should be paying income tax or taxes in the province of Ontario—first of all we have to provide them with the opportunity to work. At the present time I think this province is facing a very, very serious problem, especially in northern Ontario. And if I can use Sault Ste Marie as an example, Algoma finds itself in a very difficult situation, strapped for funds. Do you think the provincial government or the federal government or both should bail out Algoma?

Mr Blundell: I have been following that with a great deal of interest. I guess that I do not personally feel that

bailouts necessarily are constructive. I mean, ultimately jobs come from having customers and you get customers by being competitive. This may be harsh, but I guess my view of it is that the message has not really gotten through to all of Ontario and Canada, that is the game. I am very apprehensive about government intervention at this particular time because I sort of see Canada at a crossroads. And either we decide that we are going to compete and we do create jobs, or we start to intervene in the economy, and I think we then drift towards becoming the next Mexico and the next Brazil. And I see Canada very much at the crossroads.

Mr Grandmaître: Talking about Mexico, sir, do you agree that Canada should get involved in the free trade discussion with Mexico?

Mr Blundell: I am a strong advocate. I think it is important to Canada's future. I hear the people who think that we are going to give away a lot of jobs to Mexicans, and the reality is that that is not so.

I have spent a fair amount of time in Mexico because part of my responsibility with General Electric, in addition to Canada, was Latin America. What we are trying to do in Canada is become very good at those kinds of manufacturing activities that require a lot of flexibility, a lot of training, a lot of well-educated workforce and we have proven that we can out-perform even the Americans at that.

The Mexican worker is a competent, productive, quality worker. But the outstanding characteristic about their workforce is that they can only operate successfully in a task-oriented system; that is, where you have one job to do. They just do not have the education and the training to be multiskilled. For instance, we are starting up a plant now in Mexico on gas ranges—General Electric is. We have been in production six months. We are still building the first model, the same model, just getting everybody trained to make one model.

You go to Montreal—which is still in Canada—and see the appliance factory there, we have the capability to send a different washer, dishwasher, down the line one after another. The Americans cannot do it. We have gone to a batch size of one, we load the factory the day before we execute—in the States, they load it 12 weeks before—and that is done with multiskilling. With a lot of training Canadians can become, we think, the best in the world at sort of low- to medium-volume, high-variety product production. And what I can absolutely assure you is that the Mexicans are at the far end of the scale. They have to have really mass production, very little variety.

The people, if it is a real, honest deal, who will lose jobs first are the Koreans, because the $2 labour is going to come back to the $1 labour in Mexico in our trading zone; and then, second, it is going to come off the bottom end of the US production line. And we open up a market for our own production. Compared with our own, it is a population of 58 million people. I know a lot of them are below the poverty line, but at least half of them are potential consumers, so I am pro, strongly pro, US-Canada free trade and US-Canada-Mexico, North American, free trade zones. You should know that. I believe it.

Mr McLean: You indicated to Mr Grandmaître that there was a meeting that had taken place with the other commission members. Could you tell us when that took place?

Mr Blundell: Can you help me with that, Simon?

Interjection.

Mr Blundell: It was not a meeting, because I took my wife to the theatre that evening. We had dinner together and met one another, but—

Mr McLean: With all the commissioners there?

Mr Blundell: As far as I know. Maybe one was late. Did they all make it, Simon?

Mr Rosenblum: Yes. They were all there, 23 January.

Mr McLean: They were all there, 23 January. Okay.

There was some discussion earlier on with regard to the deficit and there was some indications that there was some cutback in transfer payments. Do you know the areas where those cutbacks took place?

Mr Blundell: Could you go through that again?

Mr McLean: The area. The indication here has been that the federal government is cutting back on its transfer payments to Ontario.

Mr Blundell: Right.

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Mr McLean: In what area have they cut back?

Mr Blundell: To be honest I am ignorant in that area.

Mr McLean: I guess that is what I want to relate to you. The 30 December 1990 third-quarter report from the ministry indicated that there was a $275 million increased transfer for social services. There was an over $913 million transfer to the provincial government on income tax that had not been turned over. That was more money than they anticipated. So there was over $1.2 billion transferred from the federal government to the provincial government and I am hearing that they are cutting their transfer payments.

You have indicated that you do not know where the transfer payments are to be cut. I do not either and I cannot understand how people keep saying that they have cut their transfer payments when I read the financial report from the ministry indicating the amounts of money that I have just indicated, and obviously—

Mr Blundell: Okay, I would be happy to look into getting myself a little better educated on that one.

Mr McLean: My last question is on the deficit. How high do you think the deficit could go before we really would lose our credit rating?

Mr Blundell: I think we are drifting there now. I think we are too high now and—

Mr Sutherland: Could you just clarify? Are you talking federal or provincial?

Mr Blundell: Well, I understood that is sort of Canada-wide, or—

Mr McLean: No, I am talking about the provincial deficit.

Mr Blundell: Oh, I see; sorry.

Mr McLean: Which is about $45 billion.

Mr Blundell: I guess I would have to get myself calibrated on that. I am very concerned, though, at the overall Canadian level of debt, and from my exposure to Mexico I have seen the consequences of high rates of inflation and too much government spending and it screws them and the workers pay finally.

Mrs MacKinnon: Thank you, Mr Blundell, for your excellent résumé.

Being the only woman present, I guess it is going to be very obvious where my questions are going to come from. It sure is not going to be research and development unless you are going to talk about the kitchen and the bathroom.

Mr Blundell: I have got someone at home who can help.

Mrs MacKinnon: My first question is, you have mentioned the fact that you took your wife to dinner, so you obviously are a family man. Good.

You have spent many years in engineering and physics, etc. Inasmuch as the taxation system, as we know it right now, is being very detrimental to young moms, single moms, children, etc, I am just wondering how you feel you can contribute to this particular commission in your role. You are obviously very skilled at business, and that is great. I am just wondering if you could enlighten me, please, in regard to children, etc.

Mr Blundell: Sure. Now, we have three daughters and a son and we see them struggling with their getting into the world and I think we are very sensitive to some of the challenges that are out there. Our oldest daughter, who is a teacher, lost her husband last year, so we are very much involved in the challenges that go with that. I guess that you learn from practical experience.

Mrs MacKinnon: Thank you very much. I regret that you have had that tragedy, it is kind of hard to deal with, but I just want to make sure that you are aware that there are kids in the world. Thanks very much.

Mr Blundell: If I could also comment in connection with the Guelph hospital issue—

Mrs MacKinnon: Which?

Mr Blundell: The Guelph hospital issue. We have had a number of presentations to that committee from the AIDS committee in Guelph, battered women, pretty well every agency that is in that small community. We do have a committee which is half women and half men and we have commissioned research for that population on the needs of women in terms of the health system. So we are getting to learn a little bit about that.

Mrs MacKinnon: That is great. At least you are willing to go out and learn anyway.

Mr Sutherland: I wanted to come back to the issue related to the Mexico free trade agreement, because I think that has a strong impact on taxation issues. I guess my concern, and maybe some of the concern of other members of our party about free trade agreements with Mexico and the United States, is that if you get into the large trading bloc with them then you in some ways have to gear your tax system to be similar to theirs. There seem to be a couple of different models of development. We have seen the European system where there has been, I think, some strong government intervention, even some higher rates of taxation than we see here, and areas of taxation that we do not see here, yet many of those countries have been competitive. The United States-North American model seems to be much different—that taxation is the great difficulty and if you lower taxes everything is going to take care of itself.

I am wondering how you see that impact then on what flexibility this province would have in its tax system if we are going into that, getting us joined into a total North American trading bloc with its dominant player, the United States, having a much different philosophy than maybe some of the other global partners.

Mr Blundell: There is no question that competitiveness is a big issue and I think, as you mentioned yourself earlier, that taxation is one element in that, but there are many other elements. In Mexico particularly, if you think our interest rates are high, you should go to Mexico, because not only are the real rates high, when you add the inflation on top of that you are looking at 30%. And that is a factor in an investment decision. So I guess, in very general terms, I would be more sensitive to not being too far out of whack with the US. The Mexican thing has a huge underground economy right now and a lot has to change down there before they are really going to be competitive.

Mr Sutherland: I guess if I can just pick up on that, if we say that we have a sense of different values within this province as to what we think is important and, for example, take health care, and we have said that our taxation system is going to pay for that, maybe even environmental taxes—not to presuppose what your commission is going to decide, but if that comes out or if you have to cast aside environmental taxes because the United States is not on board because it has a different philosophy towards environmental issues, are we not then limiting our flexibility on how we can approach to deal with certain issues?

Mr Blundell: Yes, it is certainly limited by discussions with the US and Mexico, but it is also limited—we compete against Korea and other countries that have far different sorts of philosophies, and we do that successfully. It seems to me that when you go into a trading zone you are trying to make that to work for you, and I think we can, if it is structured properly, make it work for us.

Mr Johnson: Mr Blundell, you have said basically that you are opposed to bailouts or intervention by governments in order to buoy up companies, make sure that—

Mr Blundell: As a generalization.

Mr Johnson: Yes. And you also mentioned free trade, and that concerns me. Governments by and large have always subsidized all aspects of society, either by direct funding grants or by the levying against with taxation or by the reduction of taxation. And that includes the poor; it includes businesses and corporations. Personally, I believe that a certain amount of protectionism is probably necessary and I will explain why.

If we were to go to a completely free market system—and I am sorry that Mr McLean is not here right now, because I believe he is a dairy farmer, and yet I believe he

advocates free trade. We have marketing boards in this province that allow our farmers an opportunity to grow products and sell them within the province, and certainly I would agree that you do not go into business to produce things for a market that does not exist.

Mr Blundell: Yes.

Mr Johnson: You want markets for your products and for your produce, in the case of farming. Ontario is, by and large, food self-sufficient. Seasonal things may vary somewhat, but I think that this is an area where we have to be concerned. The farmers in Ontario really want to be viable, and yet because of global trade and free trade we have an influx of produce from around the world that competes with our own homegrown products. And so there is an area where I think some intervention by the government is probably prudent for the society in this province. I am just curious, having a follow-up on what I said: Where do governments draw the line, and what kind of society can we expect if a universal free trade is implemented here?

Mr Blundell: I guess there is a huge grey area there. My earlier remarks, I guess, were responding to that one situation and I was giving a sort of a generic answer, and I still would hold that position.

Mr Johnson: If I could just interject and say that, for example, the Americans, our closest neighbours, could flood our market with all the foodstuffs we would ever need and we could just—

Mr Blundell: Yes.

Mr Johnson: The farmers would be nonexistent.

Mr Blundell: No, agriculture is a separate game and the marketing boards certainly have a role to play. I was with that group on Monday, by coincidence, the Farm Products Marketing Board, and I learned a little bit about that. Agriculture is not traded freely. Everybody is protecting their agriculture. And I am not against constructive government roles in the marketplace. There is a big debate about the aerospace industry, where you have governments all over the world funding the research and development of big airframes and jet engines and all this kind of thing. If that is what the rules of the game are, then obviously we in Canada are not going to blow our brains out by holding to some principle. But that is a very tough area to generalize in, you know. I think you have got to look at the specific, understand the environment and then understand what an intelligent response is. So I am not against government participation in the marketplace where it makes sense.

The Chair: Thank you, Mr Blundell.

Mr Blundell: My pleasure.

The Chair: I appreciate you appearing before the committee today and responding to all the questions.

Before we adjourn, I remind the subcommittee members that we are going to move to committee room 2 for the subcommittee meeting as soon as we adjourn. I know the lunch is being put in room 2 for us. So can just move over there. We will adjourn and reconvene at 2 pm.

The committee recessed at 1203.

AFTERNOON SITTING

The committee resumed at 1402.

NEIL BROOKS

The Chair: Come to order, please. The first witness to appear before the committee this afternoon is an intended appointee as vice-chair of the Fair Tax Commission, Professor Neil Brooks. Professor Brooks, would you like to come forward, please. Thank you very much for appearing here. We welcome you to the committee and give you the opportunity, professor, if you would like, to make a few brief comments before we open for questions.

Mr Brooks: No. I am very pleased to be nominated to the committee and look forward to the work.

The Chair: Thank you very much. You are a request of the third party and I will ask Mr McLean to begin the questioning.

Mr McLean: I want to start off by saying that you have indicated in an article that you have done, which begins, "The economy is in crisis," that there could be $7 billion to $8 billion a year saved. How would you go about doing it?

Mr Brooks: Let me say I did not write that article to bait you, but let me just tell you the point of writing the article was that numerous groups were saying that the government ought to cut back on wasteful government spending programs, and all of the groups which were urging the government to do that were simply describing and taking aim at direct spending programs. So the whole point of that little piece is just to say:

"Look, if you're talking about spending programs, the spending programs in the tax system indeed cost the government as much in lost revenues as the direct spending programs are and, on their face, appear to be as wasteful. If we're really serious about cutting back on wasteful government spending programs, we ought not to ignore the literally hundreds of subsidies implicit in the tax system; they ought to be in the review. Whether or not they ought to go is another question."

All I did in that article was try to set out kind of a prima facie case. There are billions of dollars of what appear to be, on its face, wasteful government spending here in the tax system. In any comprehensive review of government spending, let's not ignore those. That article—I think they did quite a job of editing it, mind you—had a much longer list than the ones that appeared there. But I think that even the ones that appear there amount to $7 billion or $8 billion. The point of it was just to say, in reviewing government spending programs, let's review them all, and on its face, those spending programs that I mentioned there amount to at least $7 billion.

Whether or not you would get rid of them all, or whether you would change them in some way, or whether you would take some of those indirect spending programs and turn them into direct spending programs is another question. But my point was just, on its face, there appear to be billions of dollars of wasted government money in spending programs.

Mr McLean: One area I am glad to see in the article, and it is of real interest to me, is to repeal the subsidy for business meals and entertainment. What estimate would you make of what would be spent on that alone a year?

Mr Brooks: Presently, businesses can deduct 80% of the cost of their business meals and entertainment. If the government were to provide that business meals and entertainment cannot be deducted, the government would save over $1 billion. The government is presently subsidizing business people who entertain and take business lunches to the extent of $1 billion a year. Again, the point I tried to make in that article was to say not only are these programs costing the government billions of dollars, not only are they inequitable, but they are just wasteful.

In that particular case, for example—again, I just had a couple of lines to set it out—my basic point is, if we were to cut back on this government subsidy, we might have fewer people waiting on business people, but presumably business will continue to spend its gross revenues to earn its profits and we can have more people doing productive work. Incidentally, Australia repealed its deduction for business meals and entertainment about four years ago. The United Kingdom repealed its back in 1965. The Americans certainly tightened their rules on theirs a lot recently. Disaster has not struck and they have raised a lot of money.

Mr McLean: Just a follow-up question on that. I am wondering about the civil service credit cards and the amount of money that is spent on their meals paid for by the taxpayers.

Mr Brooks: Absolutely. Whenever you are doing tax reform and you are talking about business expenses, the corollary of that is whether or not you ought to include something in the income of employees who are incurring the same types of expenses but are getting reimbursed by their employer. The answer is that employees, to the extent that their employers reimburse them for business meals or entertainment, ought to include that amount in their income as a fringe benefit. Indeed, I would go even further, since we are on this, since I am warming to this one.

Mr McLean: I like it.

Mr Brooks: I would require the value of all, in effect, implicit parliamentary fringe benefits to be included in the income of civil servants and parliamentarians. I would even go further. Let's say the government has decided, for example, that when a person is travelling he gets a $25-a-day meal allowance or he gets to stay in a hotel room that does not exceed $150 a night or something; to the extent there are guidelines to what the government thinks is reasonable for people to spend when they are travelling, I would impose those requirements on business and say: "Look, this is what we permit civil servants. If you spend more than that, you're on your own; you can't deduct it."

For example, I would not let them deduct the cost of a first-class air flight. It seems to me to be just outrageous that all those business people sit in business class and we

allow them to deduct the full cost of that. There is no business reason for that. You go out to the airport, you notice the back end of the airplane arrives about the same time as the front end. What are they doing? Sitting up there and taxpayers are picking up that enormous subsidy.

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Mr McLean: I like what you are saying. I hope you are effective on that committee in being able to put some of it into action.

A further question: The Premier and the Treasurer very strongly indicated that they are looking at a minimum 8% corporate tax, income tax and speculation tax. Since the committee was established, there were some indications that they were kind of having second thoughts about it. However, the Premier has indicated that he has denied that he is backtracking on these estimates that they are wanting to bring forward. What is your opinion?

Mr Brooks: My view on a minimum corporate tax? The trouble with all these tax policy issues, while I have a view about most of them—your recommendation or something always has an economic and social context, so that while I may have a view generally about a minimum corporate tax, the question as to whether or not Ontario ought to enact one in 1991, given the present state of the economy and so on, is quite a different question I do not have a firm view on. But generally this is the way I think about minimum corporate taxes.

What we are worried about is corporations paying tax at very low effective rates. There are three reasons why they might be paying tax at low effective rates. First, they might be receiving exempt income—that is, inner-corporate dividends—and I do not think anyone has suggested that inner-corporate dividends ought to be subject to tax. Second, they might be carrying forward losses from prior years and reducing their present-year profits and therefore, although they have got large profits in this year, have no taxable income. I do not think anyone suggested that we ought, in effect, to disallow or restrict in some way the ability of corporations to carry forward legitimate economic losses. Third, they might have low effective tax rates because they are taking advantage of the subsidies that I mentioned in that little article, or some of those subsidies. Presumably you are only going to go after corporations to the extent that their effective tax rates are low because they are taking advantage of those subsidies. Those are the corporations you are interested in. Indeed, it occurs to me that one of the first things the commission might do is examine that whole question, try to find out exactly why those corporation are paying low taxes and is it because of the generous use of these subsidies. The effect of the minimum corporate tax is kind of peculiar at one level because in effect what you are saying to corporations is, "We think that if you engage in research and development or build new plant and equipment, you should get these subsidies that we are delivering you through the tax system." One effect of that is if you take advantage of those subsidies you reduce your effective tax rate.

What we want to do with a minimum corporate tax is to say, "You can take advantage of those subsidies but you can't take too much advantage." Do you know what I mean? "If you take too much advantage we're going to claw back some of those subsidies in the form of a minimum corporate tax." One could ask, "What's the sense of clawing back subsidies delivered through the tax system when you don't claw back subsidies delivered through the direct spending system?" Some corporations, while they are paying tax, are receiving direct subsidies in excess of the tax they are paying. Presumably their net fiscal position being in deficit in some sense should not matter to you as a policy analyst if you are concerned about corporations paying.

My general point is that the minimum corporate tax looks peculiar to me conceptually, and the reason that you want it, the only possible justification for it, is just a public perception problem. These corporations are paying low rates and everyone thinks that is unfair. I think perception is important, but to answer your question directly, I guess my position would be that I would want to look very carefully at why those corporations have low effective tax rates. Is it because of exempt income, loss carry-forwards or subsidies? If it is because of these subsidies, and we are unhappy about the generosity of these subsidies, maybe we ought to just directly cut back the subsidies that are delivered through the tax system and then have a look at what the rates would be. Then if we still think there is a perception problem there, maybe you would have a minimum corporate tax.

But there are lots of problems with a minimum corporate tax. You never get it right. You place enormous pressure on the balance sheet and income statements of corporations because they can manipulate those. To answer your question directly, I guess I would not be opposed to it, but it would be kind of a last step for me. It would be an admission that you cannot get your tax system right.

Mr McLean: The bottom line is, though, if a corporation has a deferred tax or has a tax writeoff because it has invested in R and D or in new machinery, it is going to pay tax in the end. It is deferred, but they are going to pay. So to say that everybody should pay a minimum tax, that is what I was looking for an answer to.

Mr Brooks: I think that is right. It does sound peculiar to say to corporations, "If you do R and D, we're going to give you this large tax subsidy," and then you have got a corporation out there which does so much R and D it ends up paying no tax and you say, "Hey, that doesn't seem right." They are doing what you wanted them to do.

Mr McLean: Create jobs.

Mr Brooks: They are doing exactly what you wanted them to do.

The first thing I would want to do is look really carefully at the R and D subsidy and see how it is being delivered. Only if I could not get that right would I then deal with this perception problem with a minimum corporate tax. But there are lots of problems with a minimum corporate tax, in my view.

Mr Stockwell: Just a couple of quick questions. We have asked all commissioners about party affiliation. Do you have party affiliation right now?

Mr Brooks: No.

Mr Stockwell: No. You do not belong to any party?

Mr Brooks: No.

Mr Stockwell: Okay. Obviously, it leaves the rest in that series of questions out.

I have read a few of your columns and articles and you seem to weigh quite a bit of the basics or background for your positions on the fact that over the past 20 years industry, big business or whatever business you are comparing has slowly been decreasing the amount of taxes it is paying in the whole makeup of revenue generated. There are a lot of reasons why that has happened and it is not all because they are simply avoiding taxes and so on and so forth.

Do you come with an open enough mind? Is your mind open enough that you can accept some of these points that industry will definitely be making? From the columns I have read, it appears you are pretty firm in some of your ideas and commitments. How do I feel coming before this commission seeing that you have written in the past—and there are some, I think, definite reasons why they have had them reduced. Profits have reduced considerably in the last 20 years. I guess that is a question a little more personal rather than technical.

Mr Brooks: It is true that I have definite ideas about tax policy. I mean, I have been teaching it for 18 years, I have been advising governments, I have been writing and researching on it. It seems to me you would have more cause for concern if I had done all that for 18 years and did not have any views. There is no question I have views. For example, I have a view on a wealth tax: I like wealth taxes. But whether I am in favour of wealth taxes and whether I think Ontario, given that no other province has a wealth tax and given the present state of the economy, should enact a wealth tax in the early 1990s are two quite different questions. On the question as to whether or not at this time Ontario ought to enact a wealth tax, I do not have a firm view. I am really anxious to listen to the evidence on that. So one forms a judgement about tax policy issues, but one always does it in a very specific context, and those contexts change.

With respect to corporate profits and the effective tax rate on corporations, it is the case that the effective tax rate paid by corporations has gone down, and it is the case that it has gone down relative to other tax sources, and it is the case there are lots of reasons for that. One is that corporate profits as a percentage of national income have declined. Another is that the personal income tax has increased. It is not so much that the effective tax rate on corporations has gone down. The effective tax rate on corporations, if you control for corporate profits, might have stayed the same, but the tax rate on individuals kept going up. So the question is, is there any sort of tax policy reasons why those two tax bases ought to move in tandem? I do not think there is, frankly.

Incidentally, normally the way I make the argument with corporations is the way I made it in this little funny thing in the Toronto Star where I just said: "Look, here's a whole bunch of subsidies. Try to justify them." I do not care whether corporations are paying too much or too little tax in the abstract, but it appears they are receiving this $1-billion subsidy through the tax system that seems to me to be quite cost-ineffective.

Indeed, one of the things that I hope the commission would do, and I certainly cannot speak for the commission at all, but one of the things I would be urging it to do is that very question you asked, to find out what the facts are. I think the facts are just crucial. Why has the effective tax rate on corporations gone down? What have been the various factors and how largely do they account for it? I would like to see the evidence on that. Frankly, no one in Canada has done a serious study on that issue. I would like to see the evidence. I hope that this commission develops models and databases that permit it to answer those kinds of questions intelligently.

Mr Wiseman: I would like to start back in the 1960s. The Carter commission did an investigation into the tax system and came back with a huge number of recommendations which have been ignored for the most part. In one ill-fated Liberal budget of 1971, Edgar Benson attempted to bring some of these changes in but was really ganged up on by people who were benefiting from them. Can you perhaps put into context how you view yourself in this current tax commission, and have you any historical ideas about where they went wrong and why what they said did not work?

Mr Brooks: Two things about the Carter commission report: One is that commissions obviously serve different purposes, and the one really essential function that the Carter commission report served was an educative function. It proceeded in secrecy for five years, then issued this large, massive, comprehensive report at the end of five years. It was a comprehensive package; you sort of took all or nothing of it. The really important thing that the Carter commission did was serve an educative function. It said essentially: "Look, here are our ideals. This is what we ought to be aiming for." There is no question that was very valuable. For example, during the Carter commission report, when people talked about taxing capital gains, everyone was horrified. The Carter commission report set out a very closely reasoned argument as to why we should tax capital gains. People started talking about whether capital gains should be taxed. By 1972, when the government decided to tax capital gains, no one was arguing that they should not be taxed; people were arguing about how they should be taxed. There was an enormous kind of educative function that that commission performed.

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Just looking at the document in front of me about the description of this commission, I take it that the government did not conceive of this commission as having in some sense the same mission that the Carter commission report had, but rather that this commission should be more task-oriented in some sense. The government is not looking

for an all-or-nothing, comprehensive tax reform package but wants the commission to deal with a whole lot of discrete kinds of areas that it can look at and implement some and reject others and slowly move the Ontario tax system to one that is equitable and fair and efficient and simple, as tax policy people are always saying.

So I take it, just on the basis of the document, that the mission of this commission is quite different from the Carter commission report, so I would expect it to proceed in a very different way. And in particular, again as I read this, one real important purpose of this commission is to engage in kind of a public dialogue, to get people to rethink their premises about the tax system, to kind of rethink the role the tax system should play in the Ontario economy and to engage in that kind of reiterative public discussion about the tax system. It was never a mandate of the Carter commission report. So I think that the mission of this commission, as I read this document, is quite different from the Carter commission report.

Now, will it be more or less successful? I guess that is really going to be up to the government. At the end of the day, it seems to me whether many of these tax things get enacted is more a question of political strategy than sort of technical strategy. Presumably this government or any other government that looks at the recommendations of this commission will have to worry about its political strategy in terms of implementing that, in terms of trying to play interest groups off against one another and trying to show people that there are overall benefits here, even though there are going to be some losers. That is as much a question of political strategy as anything, and hopefully the government will give a great deal of thought, if it likes the technical recommendations, to politically how you do it. There is no question that that is as difficult a question as to get it right technically.

Mr Wiseman: Could we go down the R and D road a little bit? I pursued this a little earlier with Mr Blundell. In the past, R and D done in Canada by multinational corporations has in some cases been the property of the head office. In some cases that head office is in the United States and therefore all patents and royalties accrue to the head office and we get nothing out of it in terms of return in jobs and so on. In fact, in our current account and balance of payments we wind up having to pay for the research and development we have actually funded through our tax system. Would you comment on the equity of that?

Mr Brooks: I think that is a real problem, and I think it is a problem with many tax expenditures. I mean, the problem is not only that we are doing the R and D in Canada and then in effect the intangible property gets shifted somewhere else where it is used in manufacturing and so on, but in terms of our tax system—I think I had this in the little Star thing and it was one of the things they cut—with R and D you are in the peculiar situation where if you allow a sort of unlimited deduction for R and D with no restrictions at all on sort of downstream benefits from that R and D, because they can deduct it from the Canadian tax system, in effect they end up getting a deduction in Canada and yet none of the income generated by that research and development ends up getting taxed here. They take the intangible property created by that R and D and put it in a manufacturing plant in Taiwan, the United States or somewhere, where it generates taxable income; it is being taxed in some foreign country. Not only do we have an industrial policy problem here; we have a real serious tax problem because we are allowing people a deduction for expenses in Canada even though we will never tax the income that is generated from those deductions, and that is just contrary to most fundamental tax principles.

On the R and D, it is sort of a good illustration in some sense of the fact that once we recognize we are delivering these tax subsidies through the tax system, it seems to me, if one wants to look real seriously at the research and development tax credit and how we ought to be doing it, it is really essential that you put alongside that credit all the other government policy instruments that can be used for encouraging research and development. It really becomes kind of a choice of instrument problem.

Here is my central point in another way of putting it: Research and development is not a tax problem. It is true that there is this very generous accelerated deduction for research and development expenses in the tax system, but I guess the basic point I tried to make in the Star article is that it is really a spending program. We ought to use budgetary criteria in analysing that, not tax criteria. The mistake we have always made in the past is we have put these spending programs in the tax system and then treated them like they are tax deductions. We treat them like they are tax provisions and just kind of forget about them.

But it is a spending provision and we ought to evaluate it in light of our overall objectives on spending for R and D and in light of all the other policy instruments that the government uses for research and development. At the end of the day, once you have lined up all those policy instruments, it becomes kind of a choice of policy instruments problem. The government may decide, "Look, let's scrap the credit for R and D altogether and take the revenue we save from that and spend it on R and D in some other way"—subsidizing universities, for example. No, it is just a joke.

My point is, it is really a spending problem and we ought to analyse it as a spending problem. The mistake we have made in the past is to put it in there and then treat it as a tax measure, and then the government just ends up having absolutely no control over it. All these people who argue the government should not be spending money without being accountable for it and without having control over it, they ought to be real concerned about these tax measures, because they are the most unaccountable, uncontrollable spending measure the government can enact.

Mr Wiseman: I would like to change directions a little bit. One of the comments that has been made previously about the makeup of the commission is that it is too much Hogtown here and not enough hinterland. I am just looking at your curriculum vitae and you are saying that you have been at the University of Alberta, the University of British Columbia and the University of Saskatchewan, and now you are at York University. This national trek of yours across the country, do you find that has given

you a better perspective on being able to look at the various tax laws and some kind of advantage in being on the Ontario tax commission?

Mr Brooks: There are a couple of things. One is that I have done quite a bit of work for the Australian government, the New Zealand government and other governments on tax policy matters, and indeed I worked in Washington. That kind of comparative experience, it seems to me, is quite valuable when thinking about sort of the options for tax reform in Ontario, and I think tax policy issues tend not to be as culture-bound as other public policy types of issues.

I really do not know what to say about my experience. It is true I have done other work for provincial governments and I spend a lot of time out west. I am from out west; it is where my family ties are. I do not know if any of that experience will be useful at all on this commission.

The other thing I just might note is, when you count people from Hogtown—I am not from Toronto, incidentally; I am from the town of Caledon—I am from outside of Toronto. I am representing the regions on this commission.

Mr Wiseman: I think that is the direction we were headed. They would think that because you work for the University of Toronto, somehow or other you have been tainted.

Mr Brooks: I work there, but in fact I live up north. I live on a little farm, a hobby farm I deduct for tax purposes. It is a tax shelter I live on. It is not, actually; it is just a joke. But I live out in the country; so I am really from the regions.

Mr Stockwell: Do you know Fiona Nelson? She is a farmer too.

Mr Wiseman: I think Al is going to be really happy that there are enough farmers on this thing.

Mr Brooks: Maybe we have too many farmers.

Mr Wiseman: Maybe there is too high a proportion of farmers—no, it is okay.

Mr Sutherland: Mr Brooks, how would you define fairness in relation to taxation? It seems to me that before you can evaluate what changes need to be made you have to have some definition of fairness.

Mr Brooks: Let me be brutally candid about the tax system. We do talk about tax fairness and what we mean by that. What I mean, at least, is that people who are similarly circumstanced, who have the same amount of income, ought to pay the same amount of tax. Then we have all these subsidies in the tax system, and some people say those are unfair. I really do not think those are unfair, because I view them just like subsidies. We do not say the tax system is unfair because we have a direct subsidy that someone qualifies for and receives. I do not know why we should say the tax system is unfair because we have a tax subsidy that someone receives. But in the technical tax system, it seems to me to be vitally important that you get the rules right so everyone with the same income pays about the same amount of tax.

Then there is the more contentious issue: What do we mean by fairness between people at different income levels? I usually just sort of finesse that problem—and this is where I meant to be brutally frank—because I have argued that the tax system is the one instrument that the government has to redistribute income, and unlike many western European countries which use all sorts of other policy instruments to redistribute income, including centralized collective bargaining and all of those instruments, in a very liberal society like Canada the only way the government has to correct what I perceive to be sort of the maldistribution of income caused by the market is through the tax system. I have always argued that you ought to use your tax system to redistribute income from high-income people to low-income people.

That is not so much a question of tax fairness. Number one, I believe quite strongly that the market distribution of income is unfair. With many people, there is no ethical justification for the money that they in effect earn. An important function of government is to redistribute some of that market distribution of income, and it seems to me—incidentally, this is a very liberal argument in some senses—the one instrument that affects the market forces least in redistributing income is the tax system, because people are left with the freedom of all the choices they have got; it is just that you have got these kinds of progressive rates and you do a bit of redistribution.

Then the question becomes, how redistributive should the tax system be? You have obviously got some constraints. As an ethical judgement, you might want it to be very redistributive because you might look out there and say, "People look like they're working about the same, making about the same contributions; income should be distributed very equally." But obviously there are constraints on doing that. If you tax rich people too much, even I am prepared to admit, they will stop saving, they will move out of the country, they will stop working and so on. How progressive the system should be is largely an empirical question. How much fairness can you get without imposing too serious an efficiency cost on the market?

Mr Sutherland: If I can just come back to the point you made that people who are making relatively the same income should be paying relatively the same amount of income tax, what about setting up tax policy in terms of effective use of the money they are earning in terms of investment back into the economy that may be creating other jobs, or a multiplier effect versus the money just sitting there?

Mr Brooks: Actually, just kind of an incidental point, that is one of the real advantages of a wealth tax. If you had a net annual wealth tax, as many western European countries do, if you tax people on the net value of their wealth every year at some rate, one real advantage of that kind of tax is that, whether people have their money just sitting there or have invested in sort of unproductive assets or productive assets, they pay the same amount of tax; so you in effect drive them into productive assets. A problem with using the income tax to get at that kind of income is that if you put your money in unproductive uses, you do not pay any income tax. The income tax penalizes in some sense people who have put their money in productive uses.

The more general issue you raise, though, might be, to what extent do high income tax rates affect people's behaviour or choice as to whether they are going to save or consume? Many people argue that you cannot tax wealthy people too heavily on the income they earn or else they will not save and therefore it is a constraint on your progressive tax rates. If that is what you are asking if I am concerned about high tax rates on people who are saving and therefore that people will stop saving and consume, again I am prepared to admit at some point that might happen, but in fact we are a long way from there now.

My general view is that income tax rates do not affect people's rate of savings very much. Indeed, in the United States, as you might know, in 1981 Reagan reduced the tax rates on high-income people from 70% down to 50% and said, "The reason I'm doing this is to encourage people to save, for the good of the economy." The rate of private savings in the United States went down from 7.5% in 1981 to 3.5% in 1987. Rich people just went on a consumption binge.

There is not a whole lot of evidence that your tax systems affect people's rate-of-saving behaviour. The Conservative government keeps saying, "We're going to have the GST—a tax on consumption—to discourage people from consuming and encourage them to save." In fact, if you look at every country in the world and you compare the rate of private savings in their economy with the percentage of tax revenues they collect from taxes on consumption, there is absolutely zero correlation. Indeed, Japan, which has about the highest rate of private savings in the world, has virtually no consumption taxes. They collect most of their taxes through taxes on corporations and fairly hefty wealth taxes and high income tax rates.

If the question you are getting at is whether or not I worry about the effect of the tax system on people's savings behaviour, I do worry about it—at some point I worry about it—but the evidence I have seen leads me to believe that we have got a long way to go before we have got a serious problem. People save for a whole set of different reasons and the after-tax rate of return is not a very important one.

Mr Sutherland: I was wondering if you would care to comment on the issue of property taxes, since it certainly was a major issue during the election campaign. I know many people I talked to were concerned about property taxes in terms of that as an issue of funding education or funding other public policies.

Mr Brooks: The property tax is a tax I have not looked very closely at at all. I have been involved primarily in income taxes and corporate taxes and so on, so I really do not have any strong views about the property tax. I worry about the effect of property taxes on farmers, naturally, particularly small farmers—just a joke—I just do not have any real views.

The Chair: Mr Johnson, you have got two minutes.

Mr Johnson: By and large you have answered the question I was going to ask you, but you have raised another issue. As I look through your résumé, you certainly indicate that you are, if not the pre-eminent tax expert, probably one of the pre-eminent tax experts, at least that I have ever met anyway.

Mr Brooks: My condolences.

Mr Johnson: When you talk about saving, are you not talking about wealthy people? You are talking about rich people basically, because poor people have a greater propensity to spend and wealthier people have a greater propensity to save. So when you talk about savings, you are speaking about a particular aspect of our society specifically. In fact, the poor do not have the opportunity to save because they spend all of their income in surviving; is that not correct?

Mr Brooks: Absolutely. With respect to poor people, or even middle-income people, it does not make any sense to even talk about a propensity to save. They do not have a choice. They consume everything they earn. That works through right up into the middle-income classes, Most people at the average family income level in Canada are consuming virtually everything just to maintain a decent standard of living. The issue about whether we should tax savings more heavily or not is clearly an issue about how heavily you think we should be taxing high-income people. Anyone who argues that we should tax savings less in order to encourage people to save for the better of the whole economy is essentially arguing that we should tax rich people less.

Mr Johnson: And where we have encouraged people to save for pensions, again this is something that is an advantage really for wealthier people, is it not?

Mr Brooks: Yes. I do not think there is any question about that. I have seen numbers, and I must confess I cannot remember the exact numbers, but one of the most regressive tax measures the federal government has ever enacted is increasing the limits on registered retirement savings plans from $5,500 up to $15,000. It is going to cause a loss of revenue of about $300 million and all of it is going to about the top 3% of income earners. They did that, incidentally, in the face of a parliamentary committee which recommended that tax-assisted savings for pensions should be capped at about $34,000 or something like that.

Anyway, there is no question that all of those tax breaks to encourage people to save for their retirement are regressive. I do not mean to say that is a reason you might not do it, but you ought to know what the cost of doing it is. The cost of doing it is that you are giving an enormous subsidy to high-income people. Maybe there are other reasons why you should be doing it, but you had better be real clear what they are. Make sure you are getting some value for money there, because there is a real equity problem.

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Mr Grandmaître: I see you are a well-travelled man and I am glad you chose Ontario, the best province, to live in and to earn a living in.

Let's go back to subsidies. As you know, just like any other province in Canada, we are going through very difficult, economically dire times. At the present time we are faced with the possibility of losing maybe 5,000 or 6,000 jobs in the Sault Ste Marie area. Do you think we should subsidize Algoma to remain open?

Mr Brooks: Obviously, anyone who has got to make that judgement is going to want to know a lot more facts than I have at my disposal, but let me just make a general statement about that. It seems to me one of the things the commission will want to look at really closely, because it will be crucial, I would think—and again, I do not mean to be speaking for the commission—is the effect of the tax system on the location of business investments. Because it is clear, as you know, that as the economy has become increasingly globalized, we have got to worry about the effect of public policy on business investment locations.

The studies that have been done on that in the United States, for example, where they have a virtual laboratory for doing this kind of research, whether you locate in Massachusetts or Connecticut, or maybe even Texas—businesses have all of those options and there are skilled workers in all of those—are absolutely consistent, that generally the amount of taxes companies pay does not affect their business investment locations.

The common sense of that is that what determines where businesses locate are labour costs—obviously an important one; your labour costs just dwarf your tax bill in most instances—closeness to markets, transportation systems, public infrastructure, a whole range of things. The studies that have been done in the United States on whether you should give tax concessions to businesses to encourage them to locate in your jurisdictions generally have concluded there have been billions of dollars wasted trying to do that, quite ineffectively. If you want to attract businesses, the way to do it is to get your public infrastructure right, have a skilled workforce that attracts them, have markets for them and so on. Those considerations generally dwarf the tax considerations.

Again, I am not answering your question directly, just because I do not feel at all qualified to make a broad, general one, whether we should subsidize Algoma specifically. But I would begin with the proposition that providing subsidies, whether they are in the tax system or direct subsidies, to firms to encourage them to locate in your jurisdiction is generally a losing proposition.

Mr Grandmaître: You do not think that this province should be bonusing major manufacturers?

Mr Brooks: I really do not mean to be glib about this. It is obviously such a complicated problem and it really depends on each individual company. You might look at all the facts. But as a general proposition, I think if a government finds itself in a situation where it has to lure companies into the jurisdiction by subsidizing them, whether through the tax system or directly, you have got a serious problem. Where is it going to end? Then are you going to provide them subsidies?

Mr Grandmaître: Does that mean you agree with free trade?

Mr Brooks: I did not agree with free trade. I did not agree with indiscriminate liberalizing of our trade laws. I think a government that does that largely loses control over the national agenda. I worry about that. While I am certainly in favour of selective trade liberalization and so on, I worry about a government giving up all the levers that it has in controlling business investment decisions. That is to say, you might well be in favour of saying that, "Yes, we think we'll have a better economy, and maybe even a more equitable economy, if we allow decisions to be made in the marketplace about where investment will locate and so on." In effect, the government delegates to business an enormous power over the state.

We have generally done that, but I think we have to be very careful that we end up not having any control over those decisions at all. Clearly, one control that we used to have was the threat, at least, of imposing some trade restrictions. But if you just liberalize trade restrictions across the board, and give up that lever of economic control over your own economy, yes, you have problems. Then you get into the kind of thing you are talking about; so you do that and then you find you have to buy these businesses back by giving them enormous subsidies. If you are going to do that—I do not want to sound too radical here, but do it yourself; buy them out.

Mr Grandmaître: Buy them out?

Mr Brooks: If you are going to have to subsidize them all to get them to locate in your jurisdiction, then I think you should look around for some other policy instrument. If you have given up so many of the economic levers that you cannot get any businesses to invest in your jurisdiction without picking up all their costs but none of their profits, I think you are in kind of a peculiar economic situation. I would not want to be in that situation if I were a government, I will tell you.

Mr Grandmaître: I realize that. As you pointed out, taxes in this province, or any other province, are revenues and these revenues are supposed to be distributed to needed agencies and so on and so forth. Having said that, do you think too many people are taking advantage of our social policies in Ontario? Do you think that people are abusing some of our social services at the present time in this province, or too many people?

Mr Brooks: I will make a sort of fundamental point here about the tax subsidies. I do think there are people out there abusing social programs; I do not have any question about that. But I do think that the number of people who are abusing our social programs is absolutely trivial compared to the number of people abusing our tax system.

For example, the government prosecutes about 100 people for tax evasion every year. Not one of them gets sent to jail—I should not say one; three got sent to jail last year but they were all not only for tax evasion, they were up on fraud charges as well. These people evade hundreds of thousands of dollars in taxes. We routinely send people to jail for abusing social programs for $20,000 or $30,000. There is an enormously troublesome sort of double standard that we apply.

In terms of abusing the tax system, for example, multinational corporations—these are figures from a Woods Gordon study that was done for Revenue Canada—for every dollar that Revenue Canada spends auditing multinational corporations, they collect 17. That tells me there is a lot of abuse going on, billions of dollars of abuse. I am no financial guru, but if the federal government were to

privatize the auditing of private corporations, I would invest in it. It seems to me a real good return on your money there.

As a tax policy person, I worry about abuse in government wherever it occurs, and I do not mean to say that I am not concerned about the abuse of social programs, but the studies that have been done both for the Transitions report in Ontario and for the federal government, show that if you want to find abuse, look in the tax system. The size of the underground economy now is billions and billions of dollars and growing, and we ought to be doing something about that for sure.

Mr Grandmaître: One last question. You have seen the terms of reference for this commission.

Mr Brooks: Yes.

Mr Grandmaître: Is there anything else you would like to add to the terms of reference, or do you think the government should have gone much deeper than this?

Mr Brooks: I just have the same terms of reference in front of me that you do, that the government is anxious that the commission be task-oriented in some sense, that it begin to deal with perceived problems in the system. Obviously it does not want to engage in the kind of exercise that the Carter commission report did, where you give it millions and millions of dollars and say, "See you in six years," or something. It wants it to deal with the issues as they arise. It seems to me that the ones they have identified are certainly among a list of ones I would have chosen.

I certainly cannot speak for the commission at all, but I would have thought that one of the initial things the commission will do and indeed will spend a couple of months doing, is refining its agenda in some sense and hearing from all groups, hearing from business groups, hearing from small business in particular to find out what problems they are having with the tax system, to listen to all of those groups, and then from that prepare an agenda for its work.

I read these terms as being relatively open-ended, and while the government clearly wants a response to these questions, as I read these I assume that the commission in some sense will be able to establish its own agenda. I hope they do a real careful job of that and, before they decide what the priorities are, listen to every affected group in the province; that is, they do not just consult to find out but consult about what people think the problems are, and once they have prepared that agenda, consult again about what some of the answers might be. But I think preparing the agenda is going to be one of the most important issues facing the commission.

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Mr Sola: You just touched on the growth of the underground economy in response to a question by Mr Grandmaître, and it seems to me you mentioned earlier in relation to our progressive tax system that you did not think we had reached the point where it had provided a disincentive for investment.

Mr Brooks: Right.

Mr Sola: That seems to me to be almost a contradiction in terms. I wonder if you could elaborate on that to see at what point you see our progressive tax system sort of reaching the end of the rate distribution to achieve equity and where it begins to provide a disincentive for either work or investment.

Mr Brooks: One argument that people make, and it is the argument that the federal government has made for reducing income tax rates and relying more on the goods and services tax, is that if you get your income tax rates too high, people will stop working, stop saving and start cheating more. They have said we have to reduce those top rates in order to encourage people to comply with the income tax laws. I am prepared to admit that if you get those rates too high, you have increased the incentive to cheat.

I do not mean to be glib about this, but just let me say a couple of things. In theory, it is not clear that if you increase the rates, people will cheat more or less. On the one hand, if you increase the rates, the benefits from cheating go up, because if the rates are 60% instead of 40% and you cheat on $100, you have saved yourself $60. On the other hand, the costs go up as well. The costs go up because the penalty for tax evasion is based upon how much tax you have evaded. Furthermore, the costs go up because as you increase the rate, Revenue Canada has a greater and greater incentive to audit you. If they audit you and find out that you have cheated and evaded $100 and the rates are 60%, they recover $60 in tax plus penalties; if the rates are only 40%, they recover only $40 plus penalties. You have some benefits from cheating; you also have costs.

You are shaking your head, so you may not believe what I am going to say, but the theoretical studies have shown that by increasing the rate, you actually increase compliance. The empirical studies also confirm that. The United States is a virtual laboratory for this kind of thing, because you have some states with really high rates and some states with really low income tax rates and you have something called the tax compliance management program that is done randomly across the country, so you can compare fairly accurately who is cheating and who is not; they find in fact that in the states with high rates there is less cheating among high-income people. Here is the thing about commonsense experience in terms of that as well: When you think about people who are cheating on their income tax, particularly high-income people, they usually point to self-employed contractors, nannies—all those people. If their theory about high rates is right, how do they explain those people cheating? Their tax rates are the lowest in the system. They should not be cheating at all if that theory is right.

Furthermore, if you look across countries, you see absolutely no correlation between tax rates and the size of the underground economy. For example, in Hong Kong they have a flat income tax rate of 12%. The underground economy in Hong Kong is absolutely legendary. If you look across taxes, you find no correlation. There is as much cheating on sales taxes as there is on income taxes. My theory with respect to cheating is that if you give people an opportunity to cheat, they will cheat. I do not think the rates have got anything to do with it. If you want to stop

high-income people from cheating because your rates go up, then you ought to structure your tax system so they do not have an opportunity to cheat.

For example, on income from salaries and wages, we withhold the tax. No one cheats on salaries and wages; you do not have an opportunity. Why do we not withhold taxes on interest and dividend payments or capital gains payments? Those are the incomes we know there is an enormous amount of cheating on. We could stop that in a minute, just by imposing a withholding tax in the same way that we withhold on wages and salaries. We should have more comprehensive information returns. I will tell you this one just to say there is no correlation between tax rates and cheating.

In the United States, the Internal Revenue Service estimated it was losing $8 billion a year because people were claiming dependants they did not have, saying, or claiming "I've got four kids." What they now require in the United States is that when your kids reach the age of five, they have to have the equivalent to our social insurance number, and if you claim them as a dependant, you have to put their number down there. They stopped that cheating overnight, in effect. In the United States when you claim your dependant's deduction, you have got to put down your child's social insurance number; it is called the tax identification number.

Anyway, when they looked at who was cheating, there was absolutely no correlation between who was claiming excess dependants and their tax rates; it was just spread randomly across. That is what you would predict. I mean, people cheat because they are cheaters, not because their tax rates are 20%, 50%, 60% or 70%. It is a peculiar argument, frankly, for rich people to suggest, "If you increase my rate too much, I'll cheat; so don't do it." In fact, there is a basic immorality in even making that argument, I would have thought. "Oh, you're going to cheat? Well, cheat." What we ought to do is start withholding on them; send more of them to jail. Lowering rates is not a very good way of increasing income tax compliance. There is absolutely no evidence it works.

Mr Sola: Okay. You have looked at it from the angle of cheating, but how about looking at it from the angle of disincentives. You can go to people who work on the line at Ford, General Motors or any other unionized environment where they are on a computerized payroll, and they will tell you that after they make a certain amount they refuse overtime because they are working for the government, not working for themselves. It does not add to the number of people that company will employ. It just creates an added burden on the people who do accept the overtime, in trying to stretch themselves too thin.

Also, small businessmen that I have talked to say that it is almost impossible today to find somebody who will do a minimum-wage job, like wash your car in the car wash or dunk your doughnuts or something, if they are not paid in cash. Either they are on unemployment and do not want to infringe on that benefit or they are on some sort of social assistance and the money they can make at that job is not sufficient incentive for them to get off the dole, so to speak. Where is the demarcation line, where is that fine line where it is a disincentive or where it is an attempt at equity?

Mr Brooks: I agree there is no question that tax rates can affect people's behaviour, to work, to save, to take leisure, to cheat, all of those. It has some effect. No one is arguing it has zero effect. The question, though, is how great is the effect. Given other kinds of counterbalancing policies we are trying to implement, we obviously have to weigh those kinds of incentive effects against other things.

The interesting thing is that the argument that tax rates affect cheaters would not explain why the person will not dunk doughnuts, because I assume that most people who will not dunk doughnuts unless they are paid in cash are in the lowest tax bracket. The theory that tax rates affect work incentives would suggest that they should be quite prepared to dunk doughnuts and report it. It is the higher-income people who want to get the cash.

You worry about the incentive effect. Again, just to deal with work incentives in particular, the best evidence we have is what the Carter commission found—this is what virtually every study in Canada I have seen has found—that tax does not affect people's work incentives very much. Back in the 1960s our income tax rates were 80% and yet there was not mass malingering down on Bay Street, as far as I could tell. Lots of people were paying at 80%. It seems high to me. I certainly do not want rates that high. In the 1960s they were 80%. We had our highest rates of economic growth. We had the lowest rates of unemployment. I do not know. Maybe it is a good thing; I do not know. Maybe people work harder. There is kind of what economists call conflicting substitution income effects. If you tax people more, they might work less because now their leisure becomes less expensive and they will take more leisure. On the other hand, if you tax them more and what they want to do is maintain a particular standard of living, they have to work harder to maintain that standard of living, and so some people will work harder. There is lots of anecdotal evidence to show that is the case.

Mr Sola: You mentioned you have got international experience. I wonder if you are familiar with the Italian scene. A few years ago I read several articles indicating that Italy, which is a G-7 nation—at that time I think it was a G-5 nation—whenever it went to international economic summits, actually had to take along two finance ministers: the one of the legal economy and the one of the underground economy. I wonder if if you are familiar with that and if you could explain how that—

The Chair: Professor Brooks, I am going to interject here because it could be a very lengthy response. That is a rather open-ended question and I am going to give you 30 seconds to respond. Then we will move on.

Mr Brooks: I will just plead ignorance. On the other hand, we do hear these stories about other countries. Italy has got a fairly booming economy; it has not been doing so badly. They collect lots of revenue in Italy; more tax than in Canada, incidentally. The amount of tax they collect as a percentage of their gross domestic product—even the recorded GDP, and their underground economy will not be

in those numbers—is much greater than Canada's. Canada internationally is a very low tax jurisdiction. We collect about 34% of our GDP in government revenues. The average European country collects 40.5%. I just forget the figure for Italy, but it is up in the top 30s; they are collecting a whole lot of tax. People have done studies of the underground economy by using such things as the amount of cash there is in the economy and various kinds of indicators. I think by those indicators Italy does not come out so badly. It might just be a stereotype we have.

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The Chair: Mr McLean, you have got about five minutes.

Mr McLean: I have about three short questions. Do you have a full-time job?

Mr Brooks: I am a professor at York University, yes.

Mr McLean: Is that full-time?

Mr Brooks: Yes.

Mr McLean: Do you feel you will have enough time to be able to be part of this commission?

Mr Brooks: Yes. The government has assured everyone on this commission that the commissioners' time will be three or four days a month. That is all I do: work. I work seven hours a day; I could find three days in there, I am sure.

Mr McLean: Do you live on the farm near Bolton?

Mr Brooks: It is not a farm; it is a joke. It is 10 acres. It is in the country.

Mr McLean: It is not a tax write-off then?

Mr Brooks: It is no tax write-off, no. The government would owe me a whole lot of money if I were to deduct my losses on that farm, I will tell you.

Mr McLean: The first few questions you were asked, I was very enthused with your replies; but as time went on I got to have some concerns with regard to your statements on capital gains and the amount of money exempt from tax. I am getting the feeling that you feel that capital gains would be a great revenue for the province.

Mr Brooks: I think they could collect some revenue by taxing capital gains, yes.

Mr McLean: I want to give you an instance. Not many of you on that commission who are farmers or know very much about meeting a payroll on a farm. I am a farmer, and if something happened to me and my son took over my farm, I am afraid he would have to sell it to pay any capital gains, which I do not believe would be right or proper. So when you talk about raising the amount of money to help offset some of the expenditures on capital gains, it is a concern to me.

Mr Brooks: Mr McLean, I do not just say this because you are a farmer. I feel very strongly about farms and I feel very strongly that in Canada, as a matter of national policy, we should retain the family farm, even though it is costly to us, even though it means that it is costly to the economy to maintain the farm community, for a whole lot of values other than economic.

On the question as to whether or not we ought to be subsidizing farms by giving them capital gains, as you know, when a farmer dies or a farm is passed on to children there is a $500,000 exemption; then you can roll it over to your children without a tax consequence. But again, in spending terms, think about that $500,000 capital gains exemption we give farmers. In effect, it is a subsidy. We say to farmers, "When you sell your farm what we're going to do is make you pay the $200,000 tax," or whatever it is on the $500,000, "and then we're going to write you a cheque back, but just offsetting." It is a $200,000 subsidy to farmers who sell their farms.

Think about it this way: Ask whether that is a sensible policy for encouraging family farms. Number one, who gets it? I argue it is distributed absolutely wrongly. The people who get it are, for example, people who have their farms near an urban area. If you have got a farm near an urban area, and you happen to sell it to a developer, you are going to get the full subsidy. If you happen to have your farm in the middle of Saskatchewan and have to sell in an economic downturn, you get zero subsidy. That is a peculiar policy. Indeed, you get the subsidy only if you sell your farm. If we are interested in family farms, why the hell are we giving them a subsidy when they sell? We should be giving it to them when they are operating. I know all sorts of farmers. They want a subsidy so they can operate their farms. They do not want a subsidy when they sell it.

Furthermore—I will just make this general point—I worry a lot about the effect of our tax sytem on small business and farms. Again, I hope this commission will order7studies on what effect the tax system is having specifically on farmers and small businesses.

Mr McLean: The bottom line with this is you are not subsidizing the farmer, you are subsidizing that consumer who buys his food. That is who is ending up with the golden deal out of it all, not the farmer. If they paid him what it is worth, he does not need the subsidy.

Mr Brooks: Right.

Mr McLean: Our deficit is a major concern to a lot of people. What would be your recommendation in the commission as to how we are going to lower our deficit?

Mr Brooks: That, I take it, is one of the issues the commission would be looking at: how you can get your tax system most equitable. Once you have got an equitable tax system, it is up to the government to decide what it wants to do. The sense of my article in the Star, that little blurb I did—it is just nothing, but this is my bottom line—is that if the government wants to reduce the deficit by cutting back on spending programs and not increasing taxes, then the review of the spending programs it cuts back on it had better include these tax spending programs. My guess is that when you put those alongside all your direct subsidy programs, you will find that there is more wasteful spending and more cheating through the tax system than there is in the direct spending programs. So I would cut back on some of those.

Mr McLean: Do you think we have a bloated civil service?

Mr Brooks: I think everyone ought to be efficient and work hard, and we ought to have a civil service that rewards efficiency and good work. Whether we have got that kind of civil service or not, I do not know.

The Chair: Thank you, Professor Brooks. We appreciate your appearing here today and your very helpful responses to the variety of questions. Good luck.

Mr Brooks: Thank you very much.

GÉRARD LAFRENIÈRE

The Chair: The next witness to appear before the committee is Gérard Lafrenière, an intended appointee to the tax commission. I want to remind members of the committee that Mr Lafrenière's review is a 45-minute review and each caucus is limited to 15 minutes of questioning. This is a selection of the government party, so I will ask the government caucus to open up the questioning.

Mr Waters: I see in here you have worked quite extensively with co-ops. I was wondering how you felt your background with the co-ops would interact with your duties on this committee.

Mr Lafrenière: I think it would give me a perspective that is more closely associated to l'économie sociale, or social economy, as opposed to a perspective which is more oriented towards a bottom-line type of look at business. I think that the work I have done within the co-op movement has given me a kind of broad look at what one could call an alternative economy.

Mr Johnson: Mr Lafrenière, it is often heard that banks do not pay their fair share of corporate tax. I just want your opinion. Do you think banks pay their fair share? I understand some banks do not pay any corporate tax. Given that they are in the business of money, and it appears from documents that I have seen that banks profit quite handsomely from their business of handling money, do you think they should pay some tax back to the province?

Mr Lafrenière: The only thing I can answer to that is, if it is true that they do not pay their fair share of taxes, and this is a Fair Tax Commission, I think this is an area that definitely should be looked into. I do not have any pre-set attitudes towards this. It is just that I remember—I do not know, three or four years ago—there was an article in the paper that the Royal Bank of Canada had paid less tax than the latest cashier it had hired that year. It does not appear to be fair to me; I think it definitely should be an area that should be looked into very attentively.

1510

Mr Sutherland: Mr Lafrenière, looking at your résumé, it is very impressive. You have done a wide range of things. Some people may question the fact that you do not have a lot of direct experience with the taxation system. Do you see a problem with that? Or what type of perspective do you feel you are bringing to the Fair Tax Commission?

Mr Lafrenière: I am certainly not bringing a perspective of an expert on taxation, because I am not. The perspective that I hope I would be bringing to the commission would be more of a philosophical or analytical perspective. I was involved in teaching social philosophy for a number of years. I think I can bring in a view that could perhaps balance people who would come in from a traditional school of commerce approach to taxation. But definitely my contribution could not be viewed in terms of expertise on taxation.

Mr Sutherland: If we went around this room and asked the members of this committee how you define fairness, and how you define fairness in terms of financial or taxation issues, we might get a different opinion from each of us. I was wondering if you could comment on how you define fairness, maybe first of all from a philosophical standpoint and then maybe from the standpoint of taxation.

Mr Lafrenière: Fairness is an equitable participation of people in a group towards whatever the cause may be. If we are talking about taxation, it is that those people who benefit from the institutions and the government under which they live should contribute equitably, not equally, not mathematically, but equitably; that is, in proportion to the benefits they derive through a variety of sources of income.

To me, fair taxation, is a system where there are no groups or subgroups which benefit from loopholes in the system and which get an edge simply because of a status that they occupy in society or because of the nature of a certain part of their income.

Mrs MacKinnon: I have maybe a couple of questions. I will try not to make them very long. First of all, could you please explain to me what distance education is.

Mr Lafrenière: Oh, very simple. Distance education is any form of education where the teacher and the learner are separated either in time or in space or in both.

Mr Stockwell: That is as clear as mud.

Mr Lafrenière: I will give you a simple example. We have a teacher at the Ontario Institute for Studies in Education here in Toronto who teaches a number of students in the master's program in education in Timmins, Sudbury, North Bay, Sault Ste Marie, Parry Sound and places like that. This is an example of distance education.

Mrs MacKinnon: So you are talking about TV, correspondence, etc.

Mr Lafrenière: Yes, or teleconferencing, or any combination of these things.

Mrs MacKinnon: I thought that would be your answer, but I just wanted to be very clear.

The other thing I have noticed is that you have travelled a great deal in northern Ontario. Having been up to northern Ontario on a few short visits, I tell you, you must have some real type of constitution to do it on a regular basis. However, I am wondering, do you feel that having been in northern Ontario will be helpful to you on this particular commission on fair taxation?

Mr Lafrenière: I sure will bring to the commission a point of view that will be somewhat different than that which I would have if I lived on Bay Street. There are a number of things I noticed on the way down; for example, where we are paying 64 cents a litre for gasoline, there was a sign somewhere along the way, not too far from here, at

50.8 cents. People of the north are somewhat sensitive to these things, especially since Dr Hans Strauss of the economics department of Laurentian University made an analysis a few years ago of the cost of gasoline in northern Ontario and determined that the cost of transportation, which was the common excuse given for the differential in price, accounted for less than one cent per gallon in the price of gasoline. So there are definitely some areas of the economic reality that would relate to taxes for which I would bring probably a more sensitive approach because of the fact that I live 450 kilometres away from here.

Mrs MacKinnon: Thank you for that information. So I can assume that you do not live in good old Toronto.

Mr Lafrenière: That is correct.

Mrs MacKinnon: I have one other question, and if it is out of line please just say so and I will withdraw it. I notice that you are a married man. Are you a father and a grandpa? No, you are not old enough to be a grandpa.

Mr Lafrenière: I am old enough to be a grandpa, but thank God I am not yet.

Mrs MacKinnon: Oh, it is the most wonderful time of your life. Trust me. The reason for my question is perhaps obvious. I am the only woman in this particular committee today, so I am just wondering where you feel your expertise lies in regard to the taxation as it affects children of the less fortunate groups, single moms, etc.

Mr Lafrenière: Would you repeat the question? I was thinking in another track. I just do not know exactly what you want for an answer.

Mrs MacKinnon: I was just wondering, if you are a father yourself, do you feel you will be able to relate to this tax system as it bears on the children and the single moms—and dads, for that matter—throughout Ontario and the hardship that the taxation system is putting on them at this time?

Mr Lafrenière: Yes, I would presume that I would have as much or as little sensitivity to that aspect of life as anybody else on the commission.

The Vice-Chair: Time is running short, but Mr Hayes is next.

Mr Hayes: Mr Lafrenière, you mentioned in your activities here that you gave over 40 weekend seminars to boards of directors and senior staff of caisses populaires and co-operatives throughout Ontario. I would just like your opinion. Do you think caisses populaires and credit unions, for example, should or could be playing a stronger role in our communities and especially in the rural communities across this province?

Mr Lafrenière: I have committed over 20 years of my life to that thesis, sir, and the answer is yes, I believe it should play a much bigger role. But in order for credit unions, caisses populaires and other forms of co-operatives to do this there would have to be a review and a restructuring of the Co-operative Corporations Act, which is the legal framework in which co-operatives operate. There has been, to the best of my knowledge, a review going on that is almost a decade old but somehow the child is never born. Yes, I am totally convinced they should play a bigger role.

1520

The Vice-Chair: Two minutes left if there is anybody else who has any questions. We can pick them up later if need be.

Mr Grandmaître: Are we equipped for translation? Not yet?

The Vice-Chair: We are waiting for the headsets to come. When they come we will be, but they were not prepared yet.

Mr Grandmaître: Does that mean I have double time?

The Vice-Chair: No.

M. Grandmaître : Monsieur Lafrenière, en tant que le seul francophone nommé à cette commission, je vous souhaite la bienvenue au Canada, à Toronto, à Bay Street, à Queen's Park.

Let me ask you a question. You were asked what was your definition of "fair" or "justice." I listened to you very carefully. Do you think this province should subsidize northern Ontario better than we do eastern Ontario?

Mr Lafrenière: I must confess I did not get up at 4 o'clock this morning to ponder that question.

Mr Grandmaître: It is a fact.

Mr Lafrenière: That it should subsidize northern Ontario, yes; and if studies show that eastern Ontario should equally be subsidized, then I would be in favour of that. I think there has been historically a bit of an unfair distribution of the provincial wealth. Mrs MacKinnon said you have to have a strong constitution if you travel in northern Ontario. Yes, and you also have to have good nerves because our roadways are somewhat less spectacular than things you have when you drive around Toronto on 14- or 16-lane highways. I am not saying we should have 16-lane highways right up to Sudbury or beyond, but I find, and studies have shown, for example, that somewhat of an unfair percentage of taxes related to mines and other natural resources seem to flow in a much broader river towards the south than the reverse. They flow south and they trickle north. I think it is worth looking at. Maybe there should be somebody looking also at the flow going east. I lived in Ottawa for eight years and I remember the roads of the Ottawa Valley were not that much better than the roads up north.

Mr Grandmaître: You should excuse yourself. They are twice as bad as northern Ontario.

Mr Johnson: There are big potholes in Ottawa.

Mr Grandmaître: Absolutely. There is one on the Hill. I have worked in northern Ontario, as you may know, for 11 years and that is how I met my wife, from Noelville, Sudbury. I worked for Imperial Oil, especially in Sudbury and throughout northern Ontario, and I did not find a difference between eastern Ontarians and northern Ontarians, except that northern Ontarians are not happy-go-lucky people. But they are great people to be with. They enjoy life, maybe more than Bay Street people or eastern Ontarians. They enjoy life.

Mr Lafrenière: You do not want to levy a tax on that, I hope.

Mr Grandmaître: What I am getting at is that northern Ontario has been criticizing not only the provincial government but the federal government, saying that it is not getting its fair share. I know we are pumping your resources every day, every week, every year, and you are claiming governments are not returning a reasonable percentage of these revenues back to northern Ontario, as you pointed out.

You talked about the difference in gasoline prices. I can remember—I am going to name the person—the present Tory leader used to criticize the former government because of the gasoline price differentials between eastern Ontario, northern Ontario and Toronto. I was there three weeks ago, and I do not know where you bought your gas at 64 cents, but I think you got gypped. I paid 57, and that is only three weeks ago. You can buy gas in Toronto at a much cheaper rate. They claim it is transportation, so that is why it is much higher.

But let's go back to the commission. First of all, I am glad that there is somebody from northern Ontario. It is too bad there is nobody from eastern Ontario—yes, we do have somebody from eastern Ontario, but she lives in Hull; it is right across the bridge from eastern Ontario. I am glad we are going to get the northern Ontario perspective on this commission.

Going back to subsidies, I know you are living in an area where a lot of businesses—mining, especially mining, and the pulp and paper industry—are asking this government and the federal government for more subsidies. Do you think we should provide these mines and pulp and paper mills with more subsidies?

Mr Lafrenière: I think this is the type of question that should be asked in 1993 after the commission has completed its work. My work does not bring me into dealing with tax questions; I do not have any pre-set attitudes. If the industry is absolutely non-viable and the plant should be closed, then maybe it should be closed. On the other hand, in Témiscaming, just across the river from the province of Ontario, near North Bay, we have Tembec Forest Products, which was closed by CIP because "it was not a viable operation." It was taken over by the workers. It has been expanding ever since and it is now operating on the international markets.

I am a strong believer in the co-operative formula, and if you look at what is happening in France, in England, in Italy, in terms of worker co-ops, I would like to explore much more fully than I have done alternatives to either closing down plants or pouring taxpayers' money indefinitely into a kind of bottomless pit. I do not know if that answers your question. I have nothing against some subsidies provided that they make sense, but I definitely do have something against subsidizing something just to keep it alive when it should die.

If I look back at the Tembec experience, we had a situation where the mill was profitable in the sense that it was not losing money, but according to the dictum of the head office, which was in the United States, it was not making a fair contribution to the overall profit picture of the company. I believe it was around a strike or negotiation or something. They decided to close the mill. As I said, it was not a money-losing mill.

Before I would answer a blanket yes to your question, I think each situation has to be looked at and other alternatives should be looked at before pouring in a lot of money in subsidies. In my opinion, there have been too many cases of companies which received a lot of subsidies, either federal or provincial money. It does not matter who pays; it is always the taxpayer at the bottom of the pile who forks out the money, which has been kind of wasted. I would hope that the commission would look at that and come up with some reasonable recommendations.

1530

M. Grandmaître : Monsieur Lafrenière, vos expériences dans le domaine du système coopératif, vous avez été impliqué dans le mouvement depuis un certain nombre d'années. Ma question : il y a deux ans ou peut-être deux ans et demi, l'ancien gouvernement a présenté un programme qui s'adressait surtout au nord de l'Ontario. C'était un mouvement coopératif pour susciter de l'intérêt dans la petite entreprise pour créer des emplois. C'était un mouvement dont les employés et le propriétaire pouvaient créer un genre de cooperative. J'étais le ministre du Revenu à ce moment-là et je me souviens que nous avions divisé la province en quatre parties. Le nord de l'Ontario était la région qui a fait appel à ce programme. Je crois qu'il y avait trois ou quatre nouvelles compagnies qui ont été formées sous ce programme.

Qu'est-ce qui manque ? Ou peut-être que c'était le gouvernement qui faisait une erreur. Nous avions présumé que le nord de l'Ontario était pour répondre en grande majorité, la plupart de l'argent avait été pointé vers le nord de l'Ontario et très peu de gens ont répondu. Pourtant, les gens du nord de l'Ontario sont des gens avec une imagination extraordinaire.

Pourquoi pensez-vous que les gens du Nord n'en ont pas profité ?

M. Lafrenière : Une des raisons pour lesquelles les gens du Nord n'auraient pas profité de ça, à mon avis, c'est que nous, les gens du Nord, sommes essentiellement des travailleurs, des bûcherons, des mineurs.

We have been working for huge companies, Inco, Falconbridge, Abitibi, CIP, etc.

Et les gens ont perdu l'habitude de prendre en main leur propre destinée.

If you take Sudbury and Inco, at one time Inco employed 18,000 people.

Mr Grandmaître: It was 27,000.

Mr Lafrenière: Somewhere they must have employed 18,000, on the way up or one the way down. The Inco cheque was simply a guarantee. You could count on your cheque on Thursday morning the same way that you could bet that the sun would rise in the east. It was same thing with the lumber companies. Therefore, you developed a population who lost the ability to do things for themselves because they were going to do it. Mother Inco was coming up with a cheque every week and it was guaranteed. Anybody

who weighed a minimum of 150 pounds and was tall enough to see above this counter was hired by Inco, and at big wages.

If I can give you an example, probably about 1958-59 I had a brother with a master's degree in commerce from l'Université Laval who was teaching at l'Université de Sherbrooke and making $4,800 a year. I had two brothers—one of them had not finished his primary school—working at Inco, making $5,300 a year as base salary plus another $2,500 to $3,000 a year in bonuses. These were the days when you could buy a brand-new car for $1,600.

You had a situation where there were jobs that were readily available, that paid a lot of money and that were more or less guaranteed. They were as almost as guaranteed as tenure in the university system today. It developed a population that just forgot how to take its own destiny into its own hands. That would be my answer, because when I tried to work with a group in Kapuskasing when the mill wanted to close the two-by-four mill and in South River where there was another mill, we met with the people and they were afraid to assume or to take into their hands their own economic destiny. It is scary. It is easy to blame Inco. If Inco buys a company that makes batteries, and then it loses millions of dollars, the people there are a bunch of stupid idiots. If Inco invests somewhere else and loses money and has to lay off people in Sudbury, again they are idiots. If you are in a worker co-op, or if you are in an employee-owned type of business, it is more difficult to say "they" are idiots because "they" are us and it is a scary thing and people are afraid to take the step.

The federal tax system as it applies to co-ops makes this unattractive because it penalize the workers who own their own business in a co-op because of the patronage return.

La ristourne est considérée comme un boni et donc c'est taxé au maximum.

This is federal tax and not provincial, but the—

The Chair: Mr Lafrenière, I am going to have to jump in here because we are under some pretty tough time constraints and we are over the allocation. We are going to have to move on to Mr Stockwell now.

Mr Stockwell: Quickly, I have a couple of questions that I am asking everyone who comes before this committee. Do you have any party affiliation?

Mr Lafrenière: Do you mean am I a card-carrying member of any party? No.

Mr Stockwell: No, I did not ask you that. Have you belonged or do you belong to any of the provincial parties? If it is Conservative, I can understand.

Mr Lafrenière: Do I belong to a provincial party? No. Define what you mean by "belong." You asked, "Do I carry a card of any party?" The answer is no.

Mr McLean: Is he a supporter?

Mr Stockwell: Okay. How about a supporter then? Are you a supporter? Did you work or contribute in the last provincial election?

Mr Lafrenière: I did not work. I did make a contribution to a party, yes.

Mr Stockwell: Which party was that?

Mr Lafrenière: I supported the NDP in the last election with a huge contribution of $50 or $100 or something like that.

Mr Stockwell: That would almost make you a supporter of the NDP, though, would it not? I do not find a lot of people who support me end up giving money to the NDP, so it is just a curious coincidence, I suppose. I am not real shocked. I did not find a lot of people who gave me money supporting the NDP either. That tends to be how I align people, if they work or give money or something else, something like that.

Having now confirmed so far that four of the six we have interviewed have supported or carry a card or in fact lean towards the government, do you think we will get a very unbiased review of the tax system or do you think it is going to be slightly slanted?

Mr Lafrenière: No, I think it is going to be unbiased because most NDPers I know are very open-minded and fair people, like most people of other parties.

1540

Mr Stockwell: If everyone is so open and unbiased, why did we end up with so many members of the NDP on this?

Mr Lafrenière: I am sorry, sir, nobody asked me to make the selection for this commission, so I cannot feel any responsibility for the list of names or where they come from or anything. I was simply asked if I would consider sitting on this commission. I thought about it and I answered yes. That is the only thing I will plead guilty to at this time.

Mr Stockwell: Okay. There are obviously political agendas at work outside here, outside your appointment alone, and clearly that is why I asked the question. It has nothing to do with your abilities or your background, other than the fact that you belong to the NDP.

Mr Lafrenière: No, I do not belong to the NDP.

Mr Stockwell: Or work for them. I am sorry; or are a supporter—how about that?

The next question is with respect to wealth tax or death tax, minimum corporate tax, these kind of things that were kind of mouthed by the government in August and sort of backtracked on in September. As I said before, they have had a memory loss. Really what I would like to do is find out from each commissioner, do you have any firm views on those kinds of taxes right now? Do you believe they should be implemented? Do you think it is something we should be implementing or in fact examining ways it can be implemented?

Mr Lafrenière: I do not have any firm views on any aspect of taxation in the sense that this is not part of my daily preoccupations. I have general views. I find, purely on the basis of equity, that I would tend to support a system of taxation where there would be some form of taxation on inheritance, for example.

Mr Stockwell: You do?

Mr Lafrenière: Yes.

Mr Stockwell: You think that is something we should be examining and in fact looking at ways to implement?

Mr Lafrenière: I think the commission should examine everything.

Mr Stockwell: No, I asked specifically, and your response was that you have some agreement with some kind of inheritance tax.

Mr Lafrenière: Yes.

Mr Stockwell: A death tax, in other words.

Mr Lafrenière: No, not a death tax; an inheritance tax.

Mr Stockwell: That is a nicer way of putting it, I suppose, but to get an inheritance someone has to die, so it is just a different way of viewing it, I suppose. Okay, that is basically all I would like to know.

Mr McLean: The Treasurer and the Premier on many occasions have indicated they are very much in favour of a minimum corporate tax, and I am wondering about your views on that.

Mr Lafrenière: The whole aspect of corporate taxation is very, very complex. At this time, 3:45 today, I would say I have a certain leaning towards a form of corporate tax, but exactly on what basis and in what circumstances, I do not know. The same thing with the inheritance tax; I do not have any preconceived idea as to where it should start to kick in on something like this. In today's economy, are we talking about $500,000, $250,000 or $1 million? I do not know.

Mr McLean: If a small business made $250,000 a year, would you think that it should be able to not pay any taxes?

Mr Lafrenière: If a small business made $250,000 a year?

Mr McLean: That was their gross income.

Mr Lafrenière: That would depend on what their expenditures were. Taxation, as far as I understand taxation related to income, has to take into account what the expenses were in relation to that income. If the small business in question spent $300,000 in order to generate a gross revenue of $250,000, maybe that company should not pay income tax in that fiscal year.

Mr McLean: That is exactly what I wanted to get at. The Treasurer had indicated that he was looking at pretty well all corporations paying some form of tax, and there are many corporations and small businesses in the province, and specifically farmers, that have large incomes and yet they can still lose money. I would hate to see you taxing those types of businesses.

The Chair: The government caucus has a couple of minutes left if anyone wishes to ask a question. Any further follow-ups? No? Okay.

Mr Wiseman: Mr Sola did not get a chance to ask a question. Perhaps you can give him the two minutes.

The Chair: Do you want the two minutes?

Mr Sola: I thank the government very much for giving me these two minutes.

I must say first of all that I am somewhat biased in your favour because you come from my home town, and you also attended the same university as I did, tempered somewhat of course by your support of the NDP.

Speaking of biases—since you do represent the north, since you are from outside the Metro Toronto area—does it bother you that the commission is made up mostly of either residents or people who work in the greater Toronto area? Do you think that will have any bias or effect on the report you will come up with or on their observing of the situation in Ontario as a whole?

Mr Lafrenière: Not knowing the basis on which the nominations to the commission were made, it is very difficult for me to answer that. I would presume that the variety of people and the variety of backgrounds that they have would reflect a variety of points of view. In and by itself, because somebody comes from Toronto or lives in Toronto is not a guarantee that that person suffers from tunnel vision. I did not even know that a number of people come from Toronto, but the fact does not bother me particularly.

Mr Sola: But to use your own words, if I recall correctly, you said, "Benefits flow south but they trickle north." If we have eight members of the committee who have the opposite view, that benefits flow north or flow east and trickle into the Metro Toronto area, do you not think that will have some effect on the report you bring out? Because it will be a vote of eight to one or eight to two, depending on what is at issue.

Mr Lafrenière: The fact that these people live in Toronto is no guarantee that they hold a view that you impute to them. I do not know. The commission is not created. We have not met yet. I do not know what their views are. But even in the hypothesis that they held views as you have just described, I would attempt to analyse the facts. My views are not based on scientific analysis of facts. They are based on newspaper articles, discussing things with business people in the north, sort of the general lore; maybe this is founded, maybe it is not. I would hope that the working groups that will be set up for the commission would provide the commissioners with the data to either confirm or infirm these views and that on the basis of a sound analysis of data that would be produced, the commissioners would use their judgement in order to come up with a fair recommendation.

The Chair: Thank you very much, sir, for your appearance here today. I appreciate your responses to the various questions and wish you well.

Mr Lafrenière: Thank you, and I would like to thank the committee for having accepted putting my time today rather than tomorrow, because it really suited me better.

The Chair: You are welcome.

1550

SUSAN GIAMPIETRI

The Chair: The next scheduled witness is Ms Giampietri. Perhaps you can introduce yourself for the record.

Ms Giampietri: My name is Susan Giampietri, and I am an executive vice-president of the Public Service Alliance of Canada. I am also a vice-president of the Canadian Labour Congress, based in Ottawa.

The Chair: Welcome to the committee. Would you like to say a few words in opening with respect to this intended appointment, or would you like to just get right into questions?

Ms Giampietri: I do not really have any opening remarks to make. I just would like to thank the Chair and the committee for accommodating my needs and rescheduling my interview for 4 o'clock. I very much appreciate that. With that, if there are questions, which I am sure there are, I will do my best to try and answer them.

The Chair: All right. You were selected by the official opposition and we will lead off with Mr Sola.

Mr Sola: Ms Giampietri, your place of residence is Hull, Quebec.

Ms Giampietri: It is the national capital region, Ottawa-Hull, yes.

Mr Sola: Yes, okay. The reason I ask is that was one of the bones of contention when we were going through the résumés of all the members of the committee, and much was made of the fact that you are an out-of-province resident. I suppose you work in Ottawa, do you?

Ms Giampietri: Yes. Perhaps it would help the committee to understand a little bit about my residence and my work. I am not sure it is clear in my CV. I came to Canada when I was six years old. We moved to Toronto, and that is where I grew up and where I was educated. My work with both the federal government and the union has always been in Ontario, until 1985 when I was elected full-time as an executive vice-president of the Public Service Alliance of Canada; a requirement of that full-time position was that I move to the national capital region, because that is where our headquarters are.

Yes, I do live in Hull, I work in Ottawa, I am based out of Ottawa, but my background, in terms of both work with the federal government and particularly work in the labour movement, is very much Ontario. I still am very much involved in the labour movement in Ontario, with the Ontario Workers Health Centre, on its board and a vice-president. I do not know if that helps the committee.

Ottawa is a particular community. It is Ottawa-Hull. Very often we do not say Ottawa or Hull; it is Ottawa-Hull. What I noticed when I moved there five years ago was that they do not make a distinction. There are Ontarians who live on the Quebec side and work in Ottawa. There are Québécois who live in Ontario and work in Hull or who live in Ontario and work in Ontario. It is not uncommon, and it is something that is quite normal to have. Residency is not a question of province necessarily. I do not know if that helps you any.

Mr Sola: I think it is good to clear up because there was one question raised, is it appropriate to have somebody who does not pay Ontario tax on this commission? I guess you would be paying Ontario income tax—

Ms Giampietri: Sure.

Mr Sola: —but you would not be paying Ottawa property tax. So it is good to put that on the record.

Another question we have asked every member who has appeared before us so far is, do you have a political affiliation, and if so, with which party?

Ms Giampietri: Certainly, I do. I am politically affiliated to the NDP. I am a member.

Mr Sola: A card-carrying member?

Ms Giampietri: I think so. I know that I support the NDP and I make contributions and it shows up on my income tax. I suppose I have a card. I have probably misplaced it somewhere, but yes.

Mr Sola: Okay. Since you are one of the two out-of-Toronto members of the committee, do you see any effect of the heavy Toronto bias of the members who sit on your committee in their approach to the taxation problem? Do you think it will have some sort of reflection in the report that you bring out that the vast majority of the members will be Toronto-area members?

Ms Giampietri: As I said, I am originally from Toronto and I belong to a national union, so I can share with you that sometimes it was better not to say I was from Toronto because I got a lot of ribbing and a lot of sarcastic comments. Toronto is a unique situation. It is a large city and it has its particular problems because it is a large city. I think that if you live in Toronto you will bring to any issue a particular viewpoint and a particular experience that is inevitable. But I think the members who have been nominated for this commission will be representing not necessarily a geographic concern but a concern of constituents. It may be a different complexion for that constituency if they are in Toronto rather than being in northern Ontario or in the national capital region, but I think the more important representative aspect they bring is that of the constituency they represent and not necessarily the geography they come from.

Mr Sola: What I am getting at, though, is not a conscious bias but an unconscious one. For instance, the person who was in your chair just a few moments ago, when he was describing what it felt like to be from northern Ontario, he said—and I think I am quoting him—that the way that northern Ontarians viewed Toronto was that benefits flowed south from northern Ontario and only trickled back up north. You, having been originally from Toronto and now having moved away for a number of years, may have been able to actually take an objective point of view and see what the difference is from the narrow focus of being a Torontonian to somebody who has now moved to another area. People who live here may have picked up certain biases that they are not even aware of, and that may be reflected in the report you will be bringing before the government.

Ms Giampietri: That may happen. But I think part of our responsibility as commissioners is that those of us who are not from Toronto or who have moved away from Toronto, I think having recognized that there could be an unconscious bias, will need to be sensitive to that and try to help each other to flush it out if there is and make sure we do everything we can to minimize that unconscious bias.

Mr Sola: Thank you. I will turn it over to my colleague now for the rest of our time.

Mr Grandmaître: Ms Giampietri, you answered my colleague that you are a card-carrying member living in Hull. What address is on your NDP card?

Ms Giampietri: I financially support both the federal and the provincial; in terms of the provincial, it is the Quebec NDP that I am assisting financially.

Mr Grandmaître: I see; not the Ontario NDP.

Ms Giampietri: I am not sure. When I get solicitations, I normally write out a cheque and I do not often check where they are going, except when my budget comes in at the end of the month.

Mr Grandmaître: Being from the Ottawa area, I do not consider myself living in the national capital district, because it does not exist. It exists only on a map, as you know. But I am surprised that you qualify yourself as living in the national capital district. This is a dream of the National Capital Commission.

Ms Giampietri: It is Ottawa-Hull. That is how I always refer to it, as do many people I work with who live and work in Ottawa-Hull; it is really integrated. In other words, there are people—

Mr Grandmaître: I know. I was born there.

Ms Giampietri: Oh, okay.

Mr Grandmaître: And I am very surprised that you would identify yourself as being from the national capital or the Ottawa-Hull district. The only time I have heard this connotation was when we were talking about tourism or the NCC.

Anyway, let me ask you about transfer payments from the federal government. What do you think of the cutbacks of the federal government when it comes to provincial transfers?

Ms Giampietri: What do I think about them?

Mr Grandmaître: Yes.

Ms Giampietri: On a personal level?

Mr Grandmaître: Yes.

Ms Giampietri: I suppose it is a fair enough question. I am not quite sure what relevance my personal views have. I mean, I would certainly want to look at the issue and at the variables and the rationale behind it. On an initial reading you would want to say there really ought not to be any transfer payments. But when we talk about a complex issue, I would prefer to dissect it and examine its parts and work with and consult people who are knowledgeable before making a determination of precisely is it good, is it bad, should it be modified? An initial reading would be that there should not be cuts in transfer payments. If there are, let's examine the reasons for that; let's examine the consequences of not cutting them.

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Mr Stockwell: There are a couple of issues that I have very real problems with, such as the fact that you live outside the province. I will be perfectly blunt and forthright. I do not know the area very well—I am certain you know it and probably others on this committee know it better than I do—but a good portion of this tax commission, and even of some members appointed, has to do with property tax, education tax and so on and so forth. It seems absolutely unbelievable to me that out of nine or 10 million people in Ontario we cannot find 10 to sit on a commission who live in the province. Frankly speaking, whether you want to call this a district or whatever, it does not sit well with me. I do not really believe that the majority of residents of Ontario who potentially will have to live by some of the recommendations made by this commission, would be very pleased to find out that one of the commission members, or 10% of the voting bloc on this group, would not even have to pay some of those taxes themselves.

I will be forthright and abrupt and tell you right off the top that I have great difficulty with it and I think most people in this province would have great difficulty with it. Frankly I cannot believe that the Treasury department, or whoever did this review, either knew or investigated this kind of information before making the recommendation.

Having said that, we will continue on, obviously, because this is a recommended commissioner by the Treasury department, and I will ask some of the questions I asked the other members.

Ms Giampietri: May I respond to that concern of yours?

Mr Stockwell: By all means, sure.

Ms Giampietri: As I indicated, yes, I do live in Hull; I work in Ottawa. The issue of my nomination was the community I represent. I do not represent the community in Hull. The community I represent is labour in Ontario. I was put forward as a nominee by the labour movement in Ontario. My credentials in terms of participation in the labour movement in Ontario, my network, my contribution, are very clear. for the last 12 years I have worked, lived and been a member of the labour movement in Ontario. That is the constituency and it is those points of view and it is that input that I will be working with and bringing to the commission. It is the representatives of labour, working people in Ontario, who have put me forward as a nominee.

Mr Stockwell: That may well be the case, and I think there may be justification or rationalization—I am not sure—we may have sectors that are represented and so on but in my opinion we are all representing the greater constituency of Ontario. Frankly, if you live in Hull, Quebec, I am not even certain you could run and get elected to this Legislature. I am not certain of rules or conditions, but if you could not even be elected to this Legislature because you live outside the province, it bewilders me that the government would appoint you to a commission of 10 people to review taxes, and taxes that are being paid by every man, woman and working person in this province, and that we cannot find 10 out of nine or 10 million astounds me.

But having said that, do you have any views on the minimum corporate tax, the death tax or any of the taxes outlined by the NDP during the campaign that they promised to implement and apparently have had a serious memory

lapse about? Do you have any personal opinions on any of those particular taxes that were outlined in An Agenda for People?

Ms Giampietri: As a member of the commission, in my own way I am a politician as well, so I am a political activist and I certainly have views on a whole number of issues. I have some views on those issues as well. Labour has some views. But I think at this point I feel very uncomfortable putting forward publicly my personal views or labour's views on an issue that we have decided we want to establish a commission on and have that commission establish terms of reference and work on a system of research and consultation. I feel really uncomfortable in discussing my personal views or labour's views outside that process. I feel that in a way it is inappropriate to prejudge the terms of that commission, which the commission will determine, the input that the commission will consider.

As a member of the commission, I want to come to the work of the commission with an open mind. So my personal views, and labour's views, I want to share them when we sit down as a commission and finalize our terms of reference and finalize ways of consulting with the public and constituency groups.

Mr Stockwell: One last question. I am sorry I will not be staying for your entire visitation. I apologize in advance. I must go to estimates because the Treasurer is up there giving a state of the union address on the Treasury department.

In the House during the last session I said that this will be a one-sided commission, that it will be slanted and biased towards government policy, government initiatives, NDP platforms. I was assured at that time, as best you can be assured, that it would not be. Considering the fact that now we have got at least five active members of the NDP appointed to this commission, and I think we still have three or four more to interview, it appears there is going to be very close to a majority, if not a substantial majority, of people on this commission who belong to one political party which received 37% of the vote last election. Do you think it makes for a good forum to come up with constructive, open-minded, clear and fair tax initiatives when so many of them belong to one particular party that outlined very, very clearly what its position was on fair taxes and so on?

Ms Giampietri: I can give you my personal commitment that I certainly come to the commission with an open mind. I certainly will be there putting forward the perspectives of labour, there is no doubt about that. But I can share with you from personal experience that if the commission operates in the manner which so far has been established, which is openness, building consensus, getting input from the constituents who are affected by the different areas that we want to look at, then I think the policy you develop will have the support. I would think that if we do not follow the terms we have set for ourselves, the decisions you make will not have support. I think it is in our interests, despite the card that we carry, that we do the outreach and involve people who are going to be affected by the changes we are looking at.

As I said before, there may be a bias there, but recognizing that there is a bias, we need to ensure that our processes minimize that bias so the decisions you make, the public policy you reach, is in the interests of the general public, the Ontario people.

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Mr Stockwell: You agree, then, there may well be a bias

Ms Giampietri: You raised it, and I said if it is recognized, then we will deal with it.

Mr Stockwell: Okay; at least a perception of a bias. Let's leave it at that.

Ms Giampietri: That is right. If there is a perception of a bias, what I also know, as a member of the labour movement in my own union, is that sometimes you have to deal with perceptions, because they can be a barrier if you do not deal with them.

Mr Stockwell: We should deal with that perception then, because I perceive a serious bias.

Mr McLean: You have made speeches and written articles on fair taxation and tax reform. In two minutes, what would be the basis of those articles you have written and the speeches you have made with regard to fair taxation?

Ms Giampietri: I should apologize to the committee—I am chairing my own committee; so I may seem a little incoherent at times. The general principles of a fair tax are its neutrality; it is based on a progressive scale of taxes, not on consumption. Those are some general cornerstones of a fair tax system. It is not just equitable, but it is perceived to be equitable. It is understood, and having been understood, it requires or can generate legitimacy.

Mr McLean: We have had some people before us whose sentiments are with the Treasurer and the Premier with regard to the 8% corporate tax. Do you believe the philosophy that they indicated during the campaign with regard to corporate tax would be the right philosophy for Ontario to take?

Ms Giampietri: Again, you are asking me to deal with a specific in a very complex issue. Do I believe that taxes should be fairer? I would say yes. Does that include the corporate sector? I would have to say yes. But to get down to specifics, I think that is the reason the commission has been put together and why a cross-section of constituent groups has been recommended to sit on the commission.

Mr McLean: Do you believe there should be a minimum corporate tax on all businesses and corporations?

Ms Giampietri: As a general principle, yes, but what we need to work out are the details; we need to work out the consequences and the impact. In fairness, in trying to reach that goal, you want to involve the people who are affected and the experts in that area so we have something that is workable and that is not just fair but perceived to be fair.

Mr McLean: Then you would be saying that a corporation such as Tridel that had made about $65 million in a

year should pay corporation tax, regardless of any expenses it has?

Ms Giampietri: I do not think it is appropriate for me to start giving my personal opinions without going through the consultation process and looking at how we can work it out.

Mr Sutherland: I want to follow up on Mr McLean's direction of questioning in talking about issues related to taxation and process. I was wondering if you could give the committee some idea as to what you feel the process should be for this commission—I know that is difficult because it has not been decided as a whole group—or some of the things you would like to see as part of this commission.

Ms Giampietri: Again, I do not want to prejudge what the commission will finally determine as its terms of reference, but perhaps I could just use the example of what happens in a union when you have a complex issue that needs to be explored and important decisions have to be made on. The process itself can sometimes be as important as the results you are trying to achieve.

If we are looking at a complex issue like tax reform, there are many components and many issues involved in tax reform. There are many areas in the tax system that we need to look at. It is putting a process in place that allows people who are going to be affected to have input into that issue. It is trying to build consensus among some very competing interests that can happen when you are discussing a very complex issue like tax reform, and building that consensus. It is working out solutions that are fair, that are perceived to be fair, and that are understood and supported by the public, who in the end is going to pay the taxes.

Mr Johnson: I wanted to ask a question, but I just want to make a couple of comments that I suspect will kind of give you a better indication of what I want to ask.

We have many perspectives in life, and certainly when we talk about whether you come from the Ottawa-Hull area, or Ottawa or eastern Ontario, whatever, we get into some semantics about where you live. I used to live in Scarborough at one time and people would say, "Where are you from?" and I would always proudly say, "Scarborough." They would say, "Where's that?" I would ultimately say, "Toronto." It is semantics really, I think.

What is important is who you represent and who you are representative of. For example, one might say we as the government of the day in Ontario are more representative of the ordinary people of the province than any other government has been. That may not necessarily be so, but certainly from my perspective and the perspective of many of my colleagues, that is the case.

I want to ask you, because you do live in Hull—I do not hold that against you personally.

Ms Giampietri: Thank you.

Mr Johnson: Nevertheless, you work in Ontario, you work in Ottawa and you are representative of a group of people. You are the executive vice-president of the Public Service Alliance of Canada. You have many members in Ontario and you are representative of them; they pay taxes in this province and they live here. You either are representative of or represent them in this instance, and I just want you to elaborate on that somewhat for me.

Ms Giampietri: Okay. I thought I had, but I do not mind doing it again.

Mr Johnson: It may be that I was absent from the room.

Ms Giampietri: I understand my union, but not many people do. That is fair enough. In terms of my own union, I hold a full-time elected office. I am the executive vice-president. Our membership is 170,000 from coast to coast to coast and overseas; 70,000 of those people live and work in Ontario. So I represent 170,000, but 70,000 live and work right here in Ontario.

I was a vice-president of the Ontario Federation of Labour when I was working here in Toronto from 1982 to 1985. I served on committees of the Ontario Federation of Labour, more particularly the women's committee. When I first became involved in the labour movement in 1978, I began as a local executive here in Toronto. I participated on committees of the Labour Council of Metropolitan Toronto, on its executive board and as a delegate to that council. I am currently, as I said, a full-time vice-president and I am also on the executive of the Canadian Labour Congress. That is who I represent. It is workers, a great many of them here in Ontario. I continue to represent them.

Mr Johnson: Then in my opinion, I think you are going to make a very worthwhile contribution to this commission.

Ms Giampietri: Thank you.

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Mr Waters: I just have one question—I think I have asked it once before—and that is, how do you feel the makeup of the overall committee is going to work in creating a report to go back to the government? Do you feel it will create a report that is representative of the whole mosaic of the province, or do you feel there is something lacking because of the Toronto issue?

Ms Giampietri: I do not think so. As I said before, I think the constituent groups that are represented are far more relevant and important than the geography that one comes from. But that having been flagged as a concern, the terms of reference—without having been confirmed as a commissioner yet, as I said, I feel a bit awkward trying to talk about terms of reference that we have yet to agree to.

However, general principles on the terms of reference are that the commissioners themselves are one group of people and there will be a certain type of responsibility of co-ordination, supervision, directing research and co-ordinating consultation. Recognizing that Ontario is more than Toronto, the commission will have to ensure that working groups put together to deal with any specific tax issue bring together expertise from those constituencies and look at getting input from different sections of the province. Part of our terms of reference will have to be to ensure that this happens so that the end result is that you have consulted on a broad base and received input from people who are going to be affected. I think you are going

to get a better product in the end if you make that effort to involve a broader section of people.

Mr Hayes: You have been highly recommended to sit on the Fair Tax Commission, mainly because of your experience with the Public Service Alliance of Canada, the Department of Employment and Immigration, the Unemployment Insurance Commission, the OFL and the OFL women's committee. Our colleagues across the way here, especially the one in particular who is not here now, would have us believe that the previous governments in this province have never appointed anyone out-of-province to a commission board or agency in the government. You have spent most of your life, and of course living and working in Ontario; even though you have lived the last few years in Hull, do you think that would really hinder you from participating in this Fair Tax Commission and doing your job?

Ms Giampietri: Absolutely not. I tried to indicate that before. First of all, I am a Canadian, a naturalized Canadian. Second, if you ask me what province I come from, I come from Ontario; I am an Ontarian. This is where I grew up. In Ottawa-Hull, to me it is not uncommon that the residency is different from where you work and there are people who consider themselves Ontarian who live on the other side of the river, a kilometre away. So I personally do not think that it is going to inhibit or hinder my participation at all.

Mr Hayes: I think we are pleased to have you here, especially representing a sector that has not had a real strong voice when it talks about what we do with their taxes in this province.

Mrs MacKinnon: I wish to commend you for your résumé and for coming to be with us today. And where you live and what you do are very important in your life.

I will tell you what is important in my life when it comes to this commission. That is the women and the children of the province of Ontario who are suffering as a result of the high taxation that has been brought on this country in the last few years. What do you see your role as in that very regard, in regard to the women's issues and the children as they are affected by this taxation?

Ms Giampietri: Before when I was asked the question that implied, "You come from Toronto so you're going to bring that bias with you," I think we could call it a bias or we could call it our life's experience. I am a woman. I am also an immigrant and I very much am concerned about children, so I bring that life experience with me. I am involved in the labour movement, but as part of the labour movement I have also been very active in the women's movement and I bring that perspective, I bring that sensitivity that women in our society are very disadvantaged, that children in our society are very disadvantaged. I mean, we have poverty with our children, women particularly are affected by poverty, and if there is any way that a tax system can help improve the fairness, then I think that is something else that I would like to work on and that I could contribute to.

Mrs MacKinnon: Thank you very much. That was the only question I had. It is slightly obvious why I have it. I am the only woman here, apart from yourself.

Ms Giampietri: I have been in that situation before.

Mrs MacKinnon: I have been that way for the last two days.

Mr Wiseman: I would like to ask another question. I am a firm believer that the broader the world view that you can bring to issues, the more analytical and comprehensive you can be when you make your determinations. So I am not particularly worried about where you live currently. But with your labour experience and your union experience, maybe you could enlighten us as to the number of foreign delegations you have been in contact with, in terms of conversations or committees you have sat on, or any of the international approaches to issues that are of major concern to you, these experiences that you will bring to this committee.

Ms Giampietri: My involvement so far has very much been in Ontario and, in the last five years, Canada. Recently I have been appointed on behalf of the Canadian Labour Congress to the women's committee for Central America. However, that committee has not met yet. In fairness, I cannot say that at this time I could bring that international perspective. I have not had the opportunity to work with international bodies.

The Chair: Mr Sola and Mr McLean wish to ask questions. Before you do, I would like to jump in with one. In responding to Mr Stockwell, I think it was, or it may have been Mr Sola, in respect to your out-of-province residence and your ability to serve on the commission, you made reference to the fact that you were representing a group of people, the Public Service Alliance of Canada, and are really a labour choice as representative on the tax commission.

I am just wondering, in terms of your own personal relationship with labour, is it expected of you to report back in some way, shape or form to the labour movement with respect to what is occurring or developing, in effect looking for direction with respect to positions that should be taken so that you are indeed representing the views accurately of these organizations?

Ms Giampietri: Yes. The kind of system that would be in place obviously would have to conform with my role on the commission, but certainly if I am there representing labour, then I need to ensure that I have a way of dialoguing with the network in Ontario that is labour, because otherwise I would be bringing a single voice to the commission and that is not the purpose. My purpose is to sit there as a representative of labour to work with the other commissioners, who have constituencies of their own. I am sure, just as they will want to keep in very close contact with their constituencies, so will I. But it will be within the terms of the commission and what is appropriate within the terms of the commission's work.

The Chair: I am just wondering what kind of position you could perhaps find yourself in if indeed the commission made a number of recommendations that were not supported generally by labour. You are the only elected

official, if you will, serving on the commission. You could find yourself in a difficult position.

Ms Giampietri: That could happen. When you build consensus, that could happen.

Mr Sola: I would like to carry on in that vein, because that was going to be my original question. All the other members who have appeared before us so far have stated, no matter what their party affiliation or allegiance, that they were approaching this commission with an open mind, that there would not be bias or prejudice, having supported the governing party and its party platform. I find it a little bit disconcerting that you are saying you are coming here representing a large body of people and I am wondering, in doing that, if you can come in with an open mind, or do you come in with marching orders?

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Ms Giampietri: I have no marching orders. I have been nominated by the labour movement in Ontario and I will be sitting as a commissioner, hopefully, and I will have an open mind, but that is not to say that I will not be bringing the perspective that I have from labour. That is my life experience and that will be the perspective I bring. What ultimately comes out as the end product may be something of what I brought to the commission, or it may be something from another commissioner. That will be the end product. It will not necessarily be just labour's perspective, but like other commissioners, certainly I will be bringing a perspective to the work of the commission.

Mr Sola: I do not think the other members represent a constituency for the most part—quite a few of them are academics and in the private sector and that—so I do not see how you can say that they represent a constituency whereas you do. If the labour movement has a certain approach to matters of taxation, I do not see how you can say you can approach it with an open mind if you are going to be representing that approach.

Fairness for them may be as in one of these articles we have, The Politics of Envy: tax the rich. Now they may be spitting into the wind and getting hurt by the effects—the minimum corporate tax, the death tax or inheritance tax, some of those things—but some of the other members have stated that they have biases neither for nor against them or have not even considered them. But they have stated they are coming in with an open mind. You are stating that you are coming in representing the point of view that the labour movement has come to at a convention or something. I think there is a contradiction between approaching it with an open mind and representing a group of people who have come to a consensus to arrive at a decision.

Ms Giampietri: When you put a group of people together who have diverse viewpoints, you start from that point. So the principles that I bring will be labour's perspective. How we work out those principles, how we determine what the workable solutions will be, that is what I will bring an open mind to. So I may have my principle as a representative of labour, but when we get down to determining what is a workable solution, certainly I have an open mind to that. At this point I do not have all the information to say to you that I will take this position or take that. That would be prejudging the work of the commission.

Mr Sola: When it comes to signing the final report, will you be able to do that on your own or will you have to check back with the union before you can sign it?

Ms Giampietri: Again, I will be signing that report.

Mr Sola: Without prior consultation with the union?

Ms Giampietri: But, as I indicated before, that consultation will be ongoing within the proper parameters of the commission's work. I think what you are asking me are things we have not yet decided; so it is very hard to speak hypothetically.

Mr McLean: There have been 10 people recommended for appointment. We have gone through a process here today; we have asked you many questions. Regardless of what we have asked you, your appointment will be confirmed. Can you tell me what you think you have got out of this process here today?

Ms Giampietri: That is putting me on the spot, right? What have I gotten out of the process?

Mr McLean: Is it worth while, or is it necessary?

Ms Giampietri: It is not as bad as I thought it was going to be. I think you are in a better position to judge that. I certainly do agree that appointees to public bodies such as commissions should have an interview by an all-party committee. I do think the process is a good idea. The thought behind it is worth while, so I think it was beneficial.

Mr McLean: The reason I asked the question is that this committee was supposed to have an open process, whereby people were supposed to write in to apply for positions in government. Everyone we have interviewed has been asked to submit a résumé, or it has been done through the Treasury, and as far as I have gathered, we have spent two or three days here and it is not going to make one bit of difference in the outcome; all 10 people who are recommended will be appointed.

The whole process, in my estimation, is nothing but a farce, a waste of taxpayers' money. You have not indicated that you have gained anything from us and we have not gained anything from you, because we do not know your background, other than what your résumé says. How are we to find out whether you have been in trouble with the law or anything? What they are wanting to do is to put the blame on the committee if anything goes wrong after the commission is appointed. I find what we have gone through a real charade and nothing but a farce.

The Chair: Okay. Thanks, Mr McLean.

I do have one additional question to the witness. You talked about being the nominee of organized labour in Ontario. What is the process for organized labour to come forward with your name to the government? How did that process work, as you understand it?

Ms Giampietri: It is my understanding that my nomination and recommendation were put forward by the Ontario Federation of Labour, which is the central labour body representing unionized workers in Ontario.

The Chair: Were you contacted by the OFL prior to your name being submitted to ask if you had an interest?

Ms Giampietri: No, I was not.

The Chair: So this more or less came out of the blue for you. You were contacted by the government in respect to this initially.

Ms Giampietri: It did not come out of the blue, because I understand how the labour movement works. I have been in the labour movement for 12 years now. I participated on the OFL; I was a vice-president. I continue to work in Ontario with the Workers' Health and Safety Centre. The fact that I was contacted by the Treasurer's office and not directly by the OFL does not mean it came out of the blue for me. I knew very well where my nomination came from; it had to come from the body in Ontario that represents labour.

The Chair: It just seems passing strange to me, as an observer on the sidelines. If I were going to nominate someone, I would certainly initially contact them and say, "Would you be interested in me nominating you for this particular responsibility?"

Thank you for much for your appearance here today; we appreciate it.

Ms Giampietri: Thank you.

The Chair: If the members of the committee could remain for a couple of minutes, we have a request from Mr Grandmaître that we consider changing the schedule somewhat tomorrow to accommodate his needs, and it may conflict with other members' plans. If we want to change, we are going to require unanimous consent to make a change. What Mr Grandmaître is suggesting is that, rather than a 2 o'clock start tomorrow afternoon, we look at a 1 pm start, which would give us about a 45-minute lunch break, back at 1, looking at a 4 pm adjournment rather than a 5 pm adjournment. Any discussion or comments? How do we feel?

Mr Johnson: Sounds good to me.

The Chair: Do we have unanimous agreement for that change? So be it. We will start in the afternoon at 1 o'clock.

The committee adjourned at 1639.

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STANDING COMMITTEE ON GOVERNMENT AGENCIES

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Le jeudi 14 février 1991

Standing committee on government agencies

Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

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Clerk: Douglas Arnott

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Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 14 February 1991

The committee met at 1006 in room 151.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: Could we come to order, please? I am going to see a quorum. I could be criticized for that, but we are on a very tight time schedule this morning, so we are going to proceed.

SATYA PODDAR

The Chair: Our first witness is Satya Poddar. Welcome to the committee, Mr Poddar. This is a 45-minute review, to remind each caucus of the time constraints, that you will be limited to 15 minutes. Mr Poddar, would you like to make a few comments before we begin?

Mr Poddar: I do not really have any prepared comments. I am here at your service.

The Chair: So you are quite prepared to field questions. You were selected to appear before us by the government party, so I am looking towards the government caucus for a questioner.

Mr Sutherland: I will start with one or two of the questions we have asked some of the other panelists. I was wondering if you could give us how you would define fairness in general, and maybe fairness in the taxation system.

Mr Poddar: That is one question which I find very difficult to answer. Having been with the Department of Finance for 15 to 20 years of my career, I have learned that fairness is like beauty: It is in the eyes of the beholder.

I look at myself essentially as a tax engineer. My role has been to advise the decision-makers—in this case, the elected politicians—of all the consequences of what they want to achieve or, given their objective, how best to achieve those objectives. If they want to implement a particular tax change, my job has been to analyse, in as much depth as possible, its consequences for the economy, for those affected, for the simplicity of the tax system. Beyond that, I do not really know how one can answer that question about fairness.

Mr Sutherland: There has been concern expressed by some members on this committee about the open-mindedness of the people on the committee and whether the committee is going to be independent enough to carry out its work at arm's length, away from the government. I was wondering if you could comment on whether you have any concerns about your role on the committee and the independence of the committee in its decision-making.

Mr Poddar: That was one of the very first questions that came to my mind when I was initially approached to be on the commission, how independent the committee or the commission will be. I was assured many times by all the people I talked to that this is indeed an independent commission. The government is forming this commission genuinely to seek public input on the policies it has already stated to be the objectives of the party.

In many ways, leaving aside the broad parameters which have been defined, they have left entirely the details to the commission to be worked out, so I am of the view that, at least as of now, I have seen nothing that gives me the impression that the commission is not going to be independent.

Mr Owens: Looking at your rather extensive and excellent curriculum vitae, we notice you are a tax consultant for Ernst and Young. In the past, you have also had fairly extensive international experience. I am wondering how you will bring that diverse experience to your role as a member of the Fair Tax Commission.

Mr Poddar: There are two or three aspects. One, I presume I have a reasonable understanding of the tax laws—I say "reasonable," because it is almost impossible to be certain you really understand them—and of tax principles and tax practices. Those three are really essential for any formulation of policy. When I was in Ottawa working for the Department of Finance I learned that the minister may have a very simple idea—"Do I want to achieve this?"—but when you start looking at the implications, it can be really mind-boggling. And the Tax Act is so complex, that even if you could make the change in switching from the current system to the new system, transition can be very difficult. So that knowledge, I hope, will be helpful to the commission in developing any new proposals it wants to recommend to the government.

The second thing I have learned by working for or advising various governments around the world is that the tax laws are like a disease that afflicts all nations in more or less a similar fashion. When I go to these different countries they say, "Mr Poddar, this country has very unique circumstances and you have to take those into account in developing any recommendations." They presume it will take me about 15 or 20 months to understand their systems and then even longer to develop any recommendations. But it is like a doctor. When you go there, there are some common diseases, the social diseases which are afflicting every patient. And that is very helpful in designing policies, because in very little time you can point out exactly where the problems will be and, if you do certain things in a certain manner, what the consequences will be. So that experience I am hopeful will be helpful to the commission.

Mr Owens: What type of social diseases do you see infecting the tax legislation within this province? And if you have had an opportunity to reflect on some of the changes you would like to see, could you comment on that?

Mr Poddar: The most significant thing I have seen is loading too much on to the tax system. The governments

are trying to get too much out of the tax system, not only in absolute revenues but also in delivering a variety of programs through the tax system; every possible economic, social or other evil has to be addressed through the tax system. As a result, the tax system has become extremely complex.

The second thing, of course, is the play of vested interests. Many compromises are made in the design of a tax system to cater to the vested interests, and that creates a degree of unfairness in the tax system.

Third, delivering too much through the tax system and, because of the vested systems, the base gets eroded and the rates get very high. When you get to the situation where the tax rates are very high and the base is very narrow, you pay a price. You pay a price in terms of taxpayer compliance. You pay a price in terms of simplicity. You pay a price in terms of general respect by the citizens of your tax laws.

Mr Owens: With respect to the unfairness and the way the system is currently set up, do you see the current system as a disincentive to investment within the province? With respect to ideas with a view to reform, how would you see us going about maintaining the current excellent level of social programs we have within this province but reforming that system to add a level of fairness to it?

Mr Poddar: There are two aspects to your question, as I understand it. One is a question of fairness; second is a question of adequate revenues coming from the tax system to finance social programs. Those two are quite distinct questions. A tax system can yield very substantial revenues but in a fair manner. Alternatively, the tax system can be very unfair but still yield very large revenues.

As I understand, the main task of the commission is really the fairness, not the level of the tax revenues. Given the level which is given today, how best to achieve that target in a fair manner? I presume the question of fairness does not really have direct linkages to the adequacy of the tax system to fund the social programs.

How best to achieve fairness in the tax system? That is serious work today, in my words. I have spent my entire career working with the tax system, so I have my own views, but I presume this commission is really designed to build a consensus on how best to achieve those goals.

Mr Hayes: I see that you have done some research with Professor J. Whalley in the development of a general equilibrium model to determine the welfare costs of current tax distortions. Can you give us a bit of a brief on what your findings were and give us an example of what really took place? I mean the results.

Mr Poddar: For the benefit of this committee, in general, in a complex economy like that of Canada, when you make any changes in any particular area, it has implications for the rest of the economy. Virtually all sectors are affected because they are all interlinked. The only meaningful way you can analyse the implications of any change is to look at the economy as a whole, and this general equilibrium model is a construct to somehow capture the relationships among various sectors in the economy. They assume what those relationships are and then try to analyse it; if you make a change in this particular sector, how the rest of the economy will be affected.

You can make a number of assumptions in defining these relationships between the various sectors, and the results are very sensitive as to how exactly you would define the relationships between, say, banking sector to manufacturing sector, the consumer sector and housing sector and this sort of thing. But once you have defined the relationship, now you are going to, say, start imposing tax on clothing under the GST. How will it feed into the economy? The first starting point is that the tax on clothing is going to have an impact on the consumer demand for clothing. They will buy less. But then you ask: "If they buy less, what happens to the money they have saved in their pocket? Are they putting it into the savings? Are they putting it into food, which is not taxable, housing? Where else will the money go? How will it affect interest rates if aggregate level of savings is affected in the economy?"

This is how the model operates. The basic conclusion that emerges is that if you apply tax at a uniform rate across all sectors of the economy, then you are not interfering in the marketplace. You are letting the market dictate what is the most efficient allocation of consumers' resources across different types of expenditure categories. That, in turn, leads to more productivity in the economy and a high level of GNP for the economy. That particular model led to the conclusion that if the federal sales tax is replaced by a general, broad-based goods and services tax, Canada's economy will be richer, the GNP will grow by approximately one percentage point.

1020

Mr Wiseman: I just want to pursue that. You raised a rather interesting question. If you are assuming that a uniform tax across the economy is going to have an impact on the economy in the same way, are you not also assuming that all elasticities of demand are the same?

Mr Poddar: No, I am not saying that the impact will be the same across the economy. Obviously, the impact will be different in different sectors of the economy. In fact, some sectors are going to lose, others are going to gain, but overall the GNP will be higher than otherwise. As you mentioned, the response in particular sectors will depend upon the elasticities.

Mr Wiseman: Is it possible to build that kind of variable into a general model of the economy?

Mr Poddar: Yes. The general equilibrium model has in fact numerous elasticity estimates in defining those relationships across different sectors of the economy.

Mr Wiseman: My questions took me down a road I was not really going to go down. You wrote a paper, Tax Issues in Agriculture, A Discussion Paper, Department of Finance 1985. A lot of deputations we have heard in some of the other committees have shown great concern about agriculture in Ontario and the survival of agriculture. Could you perhaps give us some idea of what you found with reference to the tax system as it pertained to agriculture?

Mr Poddar: The primary focus of that paper was on hobby farms. As you know, the hobby farmers are not allowed to deduct their losses from farming activities

against income from other sources. There is a category between hobby farming and business farming where the losses are deductible only up to a limit, which used to be $5,000; it is higher now. We did a very in-depth analysis of the activities of these hobby farmers: who they are. Are these individuals who eventually develop a full viable farming business, or are these people who are basically land speculators who buy land and hold on to it and are able to deduct the costs incurred in holding that land as a farming loss? Or is it something else? Is it purely recreation pursued by rich individuals who want something for their children to play with horses and things of that type?

I guess the conclusion was that those who are full-time into farming do not report losses year in, year out, because they really have cycles. They may have flat years with no income when the crops are bad or the world prices are low, or they can have booming years. It is not very common for them to report losses consistently over long periods of time, but there was a category of individuals who consistently reported very substantial losses with no profit ever shown on their tax returns from farming activities.

So we concluded that when you have 10 to 15 years of very large losses coming from farming activities there must be something more than purely business motive in operating those farms. On that basis I think the internal advice to the minister was that it is meaningful to have a restriction on the deductibility of farm losses, and if you want to change the limit these will be the consequences. That was the main focus of the paper. Then it also talked about taxation of capital gains on the farm land, farm values and things of that type. But the main focus was the hobby farm loss.

The Chair: We are going to have to move now to the official opposition.

Mr Sola: I am interested in your international experience. You said that you have studied quite a few models, and that people seem to think it will take you a long time to grasp them but that like a doctor you can get to the problem quickly. When you compare the various international models and the simplicity or complexity of the systems, where do we rank? Do we rank near the top as far as complicated and convoluted tax systems are concerned? Or are we at the top as far as simplicity is concerned?

Mr Poddar: I think the meaningful comparison is really among industrialized countries as opposed to international in general, because the tax systems of industrialized countries are quite different than in developing countries simply because you rely much more on sophisticated accounting systems for levying your taxes: a self-assessment system as opposed to negotiated tax arrangements which prevail in many developing countries.

My own view is that the Canadian tax system is definitely better than the average among industrialized countries, both in terms of its fairness and also in terms of the degree of basic principles and how closely they are adhered to in the design of the tax system.

You have certain models such as those in Italy, if I can name a country, where compliance is not very high in part because the tax systems are very complex there. They have a value added tax with eight or nine tax rates, and in Canada we are having difficulties in implementing GST with just two tax rates, zero for basic groceries and a positive rate for other goods, and there are lots of borderline cases where people cannot really decide what is what. Are chocolate-coated biscuits candy or are they food? Now when you have eight tax rates you can imagine the complexity that arises.

In that sense the Canadian tax system is a lot better than in many other industrialized countries. In some ways that ranking changes from year to year. For example, the Canadian tax system was far better and far more comprehensive than the US system until 1986, but in 1986 the United States made a dramatic change in its tax system as part of its 1986 tax reform and I must say that in some ways now the US tax system may be a little ahead of the Canadian in overall fairness.

Mr Sola: Did they simplify it or did they make it more complicated?

Mr Poddar: They made it more complicated for the evaders and game players, but if you do not want to play games and you want to pay your taxes and forget about any game playing, then it is very simple.

Mr Sola: What is your opinion of a flat tax? Yesterday we heard one of the appointees or nominees compare, I think, the flat tax in Hong Kong to a progressive tax elsewhere in showing that it did not have much of an effect on cheating or on an underground economy. In your experience, how many areas do have flat taxes, and are they preferable or less preferable than progressive taxes?

Mr Poddar: There are two aspects of the flat tax that I would like to point out.

1. I have done a number of simulations comparing a progressive tax with the various designs of the flat taxes that various commentators have proposed. I am absolutely convinced in my mind that a flat income tax will definitely mean a redistribution of tax burden away from the well-to-do and more burdensome on the low-income and middle-income families. You just cannot avoid that consequence in the Canadian context.

2. A flat income tax does not lead to a dramatic simplification of the tax system. There are some designs of flat taxes which are really a sales tax disguised as an income tax. For example, in the United States with the Hall-Rabushka proposal of a flat tax, that flat tax is a value added tax. You can design a very simple value added tax if it is truly comprehensive and flat, as in New Zealand. Even the GST is a lot simpler than our income tax system. But if you are trying to design an income tax as a flat tax, that will have just as many complications as our progressive income tax.

Mr Sola: One more question. When you mention progressive income tax, in your opinion and in your experience, where do you draw the line between equity and disincentive? At what rate do you stop redistributing incomes so that it is from the fairness point of view, and at what point do you arrive at a killing initiative from those at the high end of the scale?

Mr Poddar: That is the role of the politician. You draw that distinction. I do not think you can point to an

exact dividing line. It is a grey zone sometimes and the grey zone can be very wide. It also depends upon, when you raise extra revenues from the well-to-do in the name of equity, what do you do with those dollars? You may give them back to those same people as investment incentives. You can give them to the lower-income people as welfare payments. It will depend upon both the degree of progressivity and also the utilization of the tax revenues for given purposes. So I am afraid that question I cannot really answer with any degree of precision.

1030

Mr Sola: I see you have dabbled a little bit in politics too. That was a pretty good answer. Speaking of politics, now that we have arrived at that subject, we have posed this question of every person that has appeared before the committee, do you have a party affiliation?

Mr Poddar: None at all.

Mr Sola: Okay. I guess that does it as far as my questioning is concerned.

Mr Grandmaître: Mr Poddar, I was going through your very impressive CV last night and under "Recent Research" it says, "Led a major review of the value added tax as an alternative to the federal manufacturers' sales tax in Canada." Can you tell us about this paper.

Mr Poddar: It was in the paper. I was involved very extensively in the Department of Finance in Ottawa in designing the GST.

Mr Grandmaître: So you are one of them.

Mr Poddar: I must say that I am not embarrassed about my involvement at all. I think the tax could have been designed better than it was implemented, but in the process of that review a number of studies were done as background studies, things like, how variable or uneven are the rates of the federal sales tax that existed prior to 1 January? What is the incidence of the tax by income bracket, by family size? How should housing be taxed if it is going to be taxed? How do you apply the tax to banking transactions, insurance transactions, things of that type? So there were a number of studies done which became the background for the government's white paper on sales tax reform.

Mr Grandmaître: In your view what is the best tax, the GST or the old manufacturers' sales tax?

Mr Poddar: I have no respect at all, whatsoever, for a manufacturers' sales tax. In today's industrialized economies, the only meaningful point to impose a tax is on a final sale to the consumer, because when you stop the tax at an intermediate level then it is very difficult to define at that intermediate level who the manufacturer is. That was the biggest problem with the federal manufacturers' sales tax. In some cases the manufacturer, wholesaler and retailer were all combined into one entity. In other cases they were separate, so the tax became very uneven.

Mr Grandmaître: So you favour the existing system, the GST.

Mr Poddar: I do not particularly like the design the federal government has adopted, again because there are many compromises in it, but it is a lot better than what we had before, yes.

Mr Grandmaître: Also, you have examples of other major assignments, comparison of the tax systems of Canada and the United States. Can you briefly give me the advantages or the disadvantages of both systems? You could go on for half an hour, but in a very few words, what are the advantages and disadvantages of our two systems?

Mr Poddar: Let me start with the personal income tax. There are three or four main differences as of today between the US and the Canadian tax systems. One is the treatment of dividends and capital gains. The United States does not have a dividend tax credit, nor does it have any preference for capital gains. In Canada we have a $500-million lifetime exemption for small business and farm gains and $100,000 for other types of gains, and we give a dividend tax credit. That is the major difference in the tax systems of the two countries.

Second, the treatment of families: The United States has a family-based income tax system while ours is an individual-based income tax system.

The third thing is that the Canadian tax system is a lot more progressive at the lower end than the US system, mainly through the provision of these refundable child tax credits, the sales tax credits and even the basic rate structure is more progressive in Canada at the lower end than the US system.

The fourth is that the United States has gone very hard after the 1986 tax reform in dealing with tax shelters. Canada has also made significant moves in plugging the tax shelters, but it has not been as ruthless as the United States has been.

Those would be the main differences on the personal income tax side.

On the corporate income tax side, I guess the main difference will be the corporate minimum tax in the United States, which Canada does not have. On the other hand, in Canada both provinces and the federal government are making increasing use of capital taxes as an alternative to corporate income tax. In the United States they still do not have anything like a capital tax.

Mr Grandmaître: Do you think Canadians as a whole have reached their saturation point as far as municipal, provincial and federal taxes are concerned?

Mr Poddar: I thought they reached that point 10 years ago or 20 years ago.

Mr Grandmaître: In California, as you know, people demonstrated against their municipal governments and the federal government. But let's talk about Ontario. Do you think our sponge is full?

Mr Poddar: I can speak for myself. I pay a lot more than I like to pay. About other taxpayers, I guess it depends.

I think the answer to that question is always yes. Taxes are always too high. They are never too low. Even philosophically, that is a good way to handle things, that unless they are an absolute necessity they should not be there, or if they are there they should not be increased by a penny unless they are absolutely essential or you are absolutely convinced the benefits far exceed the costs.

I think you can only answer that question in this context: If you want an extra dollar from the taxpayers' pocket, what will you do with it? Are the benefits to society from that extra dollar of tax revenues more than the loss to him or her in his pocket? That question will vary from situation to situation and you have to look at both sides as well.

Mr Grandmaître: I appreciate your answer, but at the same time, do you think Ontarians are willing to step back and say, "Hey, enough is enough," and allow governments like this one to cut back on services? Do you think Ontarians are willing to cut back or are willing to receive less services because they are overtaxed or think they are overtaxed?

The Chair: I would appreciate a brief response.

Mr Poddar: The only reason I am not a politician is because I cannot answer those questions. You are better equipped and more talented than I am in answering and handling those questions.

Mr Grandmaître: Mr Chairman, I find these people very interesting because they say, "Oh, I'm not a politician." These people are in a position to influence ministers, even the Premier of this province or the Prime Minister of Canada, and yet they say, "I'm not a politician." The only thing that is missing, sir, is that you have never been elected, but you are a good politician.

Mr Villeneuve: In your opinion you have said that the manufacturers' sales tax was not very palatable to you. Would you suggest that taxes as they are, the sales tax in the province of Ontario and the GST now, should be added on to the price so that the consumer readily identifies the tax or should it be like petroleum, which is 60 cents a litre in eastern Ontario, 50 cents a litre here in Toronto, and three quarters of it is probably tax? There seems to be some apprehension at the consumer level to recognize and pay the tax on top. What is your opinion on that? Would you like to identify those taxes or do you want to build them into the price?

1040

Mr Poddar: My own impression is based on a few studies I have seen. Consumers prefer not to see taxes added on separately. It is a nuisance for them. When taxes are 3%, 4%, 5%, 7%, you can live with the nuisance, but when taxes become 15%, 20% or higher the shelf prices become meaningless. If the taxes are that heavy, they prefer to know when they pick up an item off the shelf, how much is the total cost. In that sense it is preferable from the consumers' point of view to have taxes included in the price on the shelf.

Purely from the question of a political decision-making process, in a democratic society taxpayers should know what the cost of the taxes is, buried in the price of the product; so one compromise may be that both the tax and the price are identified on the shelf tag. In fact, some retailers are planning to adopt that strategy; they will show price, $10, PST and GST so much, total price $11.50, so the consumer knows what the total cost is before he picks up an item. At the same time he knows what the tax components are, so if you want to lay the blame he knows who to blame.

As to the option of simply having $10 on the shelf price and saying as the cash counter, "Oh, I'm short in my pocket; I didn't figure the 15% I have to pay," that can be very annoying to consumers.

I was at a restaurant ordering a meal. When my bill came, it was twice the price I had mentally done the arithmetic for because 15% or 16% in taxes plus an automatic 15% or 16% in tip was 30% or 35% extra. By the time you have coffee, which you never figure on your menu prices, it was double the price I had planned in my mind. It can be very embarrassing in those situations and that is why most consumers in Europe prefer to have taxes included in the price.

Mr Villeneuve: I gather that is then your philosophy and your preference.

Mr Poddar: My preference is an all-inclusive price with an indication of tax, if possible, that is included in the price.

Mr Villeneuve: For example, at the service station, on the components of fuel, you would like to see your friendly provincial government take this slice and your friendly federal government take this slice, and you get down to the actual price of the fuel which is considerably less than the added-on taxes.

Mr Poddar: Yes, that would be my preference.

Mr Villeneuve: It is the same with your neighbourhood liquor store when you look at the value of the stuff that is in the bottle, compared to the taxes that are on the product.

I have one more question, and it has to do with agriculture. You quite obviously looked at some of the breaks that farmers get because of the fact that they are in that particular profession as opposed to others. Are you satisfied that some of the breakdowns you have seen, the analyses you have done on money-losing entities in agriculture, were really using the system or were they attempting to make a profit and it did not happen?

Mr Poddar: You can distinguish two types of people. There is a category of individual taxpayers who have been reporting losses, not for one or two or three years, because if you were just trying to get into business seriously and you lost money for two years, presumably you would be out of it after two years, but have 10 to 15 years of consistent losses. Without really talking to them individually and looking at their files on a one-to-one basis, I cannot really conclude what the intentions were, but it makes you wonder if any business can survive 15 to 20 or so years of continuous losses.

Mr Villeneuve: Are you happy with the tax structure for small corporations where it is a flat line to $200,000 and then there is a fairly steep step at that figure, or do you see ways and means of beating the system when you have a flat line and then a large step up?

Mr Poddar: No, I do not. To my knowledge the ways of beating it are not that simple. The law is very clear. On the first $200,000 of income, you would pay the low tax rate and then you pay a high rate beyond that. There may be misreporting of income, but regardless of how you have

calculated your income, once the income is calculated, there are two rates, one up to $200,000 and one beyond that, so I do not really see how you are going to beat that system.

The Chair: One quick question, Mr Poddar, before we wrap it up. We had a witness before us yesterday who is going to be serving on the commission with you, and he was talking about, in his view, how significant tax cheating is. I just wondered if you had a view on that. I know he suggested that in the national sense, the government could recover something in the neighbourhood of $3 billion. I am wondering if you have any views on that and how it might impact in Ontario.

Mr Poddar: It is something nobody can get a handle on. If you know exactly how cheating takes place and how extensive it is, presumably you can tap on to it, and the reason governments have not been very successful is that it is very difficult to know how it goes on.

Based on a few stories and a social conversations I have had, I am alarmed about the degree of compliance gap in Canada today. This may be in part because of a very significant drop in audit enforcements by Revenue Canada. I am not aware of the level of audit penetration by the provincial officers, but definitely Revenue Canada has been strapped for resources and audit penetration has gone down very significantly. There is room for recovering additional moneys through increased audit enforcement. How large it is, I do not think I am really able to say. I tried to estimate that at one time when I was in Department of Finance, but I do not think it is really possible to get a meaningful handle on the degree of tax gaps.

The Chair: You have a suspicion that it is quite significant?

Mr Poddar: In certain sectors of the economy, yes.

The Chair: Thank you very much, Mr. Poddar. We appreciate your appearing before the committee this morning and we wish you well.

Mr Poddar: Thank you.

The Chair: While we are waiting for our next witness to appear, I remind the members that we are going to reconvene at 1 o'clock rather than 2 o'clock as was shown in the original schedule, so we can accommodate one of our colleagues and finish up a little earlier than originally intended.

JAYNE BERMAN

The Chair: Mrs Berman, welcome to the committee. It is good to see you here today. As the members know, Mrs Berman is an intended appointee to the tax commission and she was selected for an appearance here today by the government party. Mrs Berman, would you like to make a few opening comments? Do you have anything to say before we get on with questions?

Mrs Berman: Nothing specific, except that I am looking forward to the opportunity I have been selected for and I look forward to the challenge and the education that is going to be present within it. I trust I will do a good job of the task set before us.

Mr Sutherland: I was wondering if you can just comment on why you were willing to serve on this committee. I am looking at your résumé. You provide a different perspective as a business person. It looks like it is a small business you are operating. Maybe you can just comment on why you are willing to accept this and give some of your general impressions of the tax system and how it impacts on small business.

Mrs Berman: It was an opportunity that I did not expect. I did not know that my name was going to be suggested for it, but I certainly welcomed it when I received the phone call. It came at a good juncture for me personally, in that I am taking a short semi-leave-of-absence from my business, having run it actively for 11 years.

It seemed a unique challenge in a different direction and a chance to give some real input into some of the things that affect us as Canadians, as Ontarians, and a chance to perceive what the coming 10 years or decade or 20 years were going to provide for my business as well as Ontarians as a whole.

Mr Sutherland: Could you just comment on some general impressions of the tax system?

Mrs Berman: I do not consider myself an expert. I do not think I was chosen for my tax. I am sure you have had people before you—I know I have read the CVs—who have a great deal more to say in terms of the tax system as it exists now. My objective is to read the materials that will be provided to us to inform myself about each of the issues we are going to be presented with and to then make a judgement about the questions we are going to be asked.

1050

Mr Johnson: Mrs Berman, you bring to the commission a business perspective, albeit a small business perspective. Your business is a rental business?

Mrs Berman: Yes, it is.

Mr Johnson: The tax system has changed over the last 10 or 11 years with regard to the rental business, as I understand it. I have had some interesting discussions with a rental business in the community where I live, and it may have been as many as 9 or 10 years ago that some changes were introduced that they thought were going to be detrimental to their business. Nevertheless, they lived with them and they are still flourishing, obviously, because they are still in business. Have there been any changes in the 11 years that you have been in business that you have found detrimental to your business?

Mrs Berman: No. The only significant change was for a period, I believe, from 1982 to 1984 or 1985. There was something known as the inventory tax credit. Rental businesses that classed their goods as inventory as opposed to fixed assets could avail themselves of a 3% inventory tax credit. That was, of course, very helpful during those years, but has been since removed. That is the most significant change that I am aware of.

Mr Johnson: I think that might be in fact what they were concerned about. Just how is business during the recession?

Mrs Berman: It is not ebullient, but it is probably more stable than some other small businesses in that we have a bank of clients whom we have served, approximately 4,000 or 5,000 clients that we continue to serve. Whereas growth may not be what we would like it to be during the period, we still have a base.

Mr Owens: Mrs Berman, Golden Plug is not exactly a mom-and-pop organization; it is a fairly large organization. What is your volume of business these days?

Mrs Berman: Well, it kind of is a mom-and-pop in a very literal sense now, because my husband joined me a few years ago. He is a lawyer by profession, but he is now in the business. We have, as I said, approximately 4,000 or 5,000 clients and we have 15 to 18 employees, depending on the season.

Mr Johnson: I noticed in your CV that you list membership in the Association of Progressive Rental Organizations. Could you tell the committee a little bit about that organization, and what is the difference between progressive rental organizations and the Rental Association of Canada?

Mrs Berman: The rental association represents pure rental operators that may rent tools and construction equipment and party equipment and are pure rental operators. There is no ownership associated. The Association of Progressive Rental Organizations is more involved with rent-to-own, which we do as well. We do both, so we belong to both organizations in order to avail ourselves of their annual meetings, should they be informative, or publications, etc.

Mr Johnson: What kind of ideas would you bring to the commission with respect to tax reform? Our last potential appointee mentioned that fairness is only in the eyes of the beholder; but what type of reforms would you like to see brought to bear on the tax system that would make the system a little bit more equitable? That is maybe a better word to use.

Mrs Berman: I do not have a lot of preconceived notions. I do not consider myself a tax expert. I think the expectations that the commission is going to have to handle are quite copious. They are going to be looking at almost every aspect of the tax system. Naturally, I will be looking at it from my point of view as a middle-class Ontarian and as a business owner. I will be concerned about the changes that might affect small business adversely and I will also be concerned about fairness for all levels of society. I am not going to look at it from a purely personal point of view. I hope I will be able to take a broader perspective.

Mrs MacKinnon: Mrs Berman, I am going to repeat what I have said the last couple of days. Apart from yourself and one in the back, I am the only woman here on the committee, so naturally my questions are going to be slanted that way. But inasmuch as the tax system as we have it in the province of Ontario today seems to be very detrimental to children and single moms and, yes, even moms who are not single, I am just wondering what your expertise is or what you could contribute to this committee in that regard.

Mrs Berman: I do not think I can contribute from my past experience to that issue until I have availed myself of the readings and I have looked at the working papers that will be provided by the various groups. I presume when they are looking at that particular issue you have mentioned, working papers will be created under the guise of the commission. Only when I have all the facts in front of me could I really comment knowledgeably.

Mrs MacKinnon: But I am sure you are keenly aware, at least I hope you are aware, of the plight of children in the province and, as I said before, of some single and maybe not-single parents in regard to what taxation is doing to them at the moment.

Mrs Berman: I am certainly aware that there is a single-mom issue in the province and that it involves not only taxes but also the ability to work and the level of living that is given to these women that sometimes may prevent them from working. Certainly I have a concern about that and I will want to look at all the facts.

Mrs MacKinnon: Another question has been asked of all the candidates and I will be the one to ask it today. Are you affiliated with a political party?

Mrs Berman: No.

Mrs MacKinnon: Did you contribute to any political party in the last election?

Mrs Berman: No.

Mrs MacKinnon: That answers that question. Thank you very much.

Mr Wiseman: I have two questions I would like to pursue. In your rental business, do you rent furniture to apartments and to buildings?

Mrs Berman: Yes, among other things. We have a very broad product line.

Mr Wiseman: How do you feel about the discrepancy between taxes, the fact that you have to charge sales tax on your rentals to apartments, yet if consumers go in and rent a furnished apartment, they do not?

Mrs Berman: I had not really looked at that issue in detail. That is an interesting one. There is no GST, because the rent is not subject to GST. Is that right?

Mr Wiseman: And PST as well.

Mrs Berman: Yes. Well, it is a relatively discrete group of consumers who face that circumstance. They do not, for the most part, represent my client base, so on a personal level I am not concerned. I do not see it as affecting my business. On a fairness basis, I would suppose there is an argument that it would be fair because for those people that may be the only housing that they may have. It is not a concern for our business.

Mr Wiseman: I have a really strong indication that that question will be coming before the Fair Tax Commission, because it came before the standing committee on finance and economic affairs.

Mrs Berman: It is an interesting one.

Mr Wiseman: The next question that I have has to do with inventory and the switch from the manufacturing

sales tax to the GST. Can you give us an indication of how that switch affected you?

Mrs Berman: As in any small business, it cost us a certain amount of money in computer programming to adjust our systems and to advise our clients of the change. We cannot estimate yet what it will cost us in terms of growth with our clients. I have to assume that there will be a cost. When people are looking at a $20-a-month amount as being what they can afford, an extra few dollars does make a significant difference. So I am assuming that we will bear some of the costs over the coming years.

Mr Wiseman: Assuming you had an inventory at year-end, how much of a rebate did you get from the federal government from the manufacturing sales tax when it introduced the GST?

Mrs Berman: We, of course, have not received anything yet. I think we are in the process of filing, but we will be looking at somewhere around $40,000.

Mr Wiseman: I did not mean in terms of dollars; I meant in terms of percentage.

Mrs Berman: The principle is, I believe, 8.25% or 8.5% on brand-new inventory that you held in your stock as at the year-end, and half of that for used inventory; naturally most of our products are used.

Mr Wiseman: So would you have had a loss on the switch?

Mrs Berman: I believe so. If one looked at all the factors, of course, the computer programming, the loss of customers, the total thing is a loss, yes.

1100

The Chair: Thanks very much. We will move on to the official opposition.

Mr Grandmaître: Mrs Berman, how did you find out about this commission?

Mrs Berman: Unbeknown to me, my name was suggested by an individual who worked in the Treasury as a person who perhaps might have something to contribute. Some weeks after my name was put forward, I received a phone call telling me that the person had done that and asking if that was all right. A couple of days later I received the call.

Mr Grandmaître: If it was all right for what?

Mrs Berman: For having submitted it and whether I would be willing to do that.

Mr Grandmaître: I see.

As a follow-up to the GST question, do you favour the GST?

Mrs Berman: No.

Mr Grandmaître: It is a good answer—a good question, I should say. Non-political.

Can I ask you a very personal question? Where did you get the Golden Plug Ltd company? How did you dream this up?

Mrs Berman: My family was in the electronics industry, but on the distribution side, so I had a bit of knowledge about the possibilities in that area. When I was looking for a business—we were not in retail, but this suggested itself to me, and I began it in 1979.

Mr Grandmaître: Very interesting.

Mrs Berman: The name comes from an ad agency. I have sometimes doubted its efficacy, but anyway we have it.

Mr Grandmaître: Do you think small businesses are overtaxed at the present time?

Mrs Berman: I think they have some excessive areas of burden if one considers the various insurance programs that one subsidizes and the taxes. I think that it can be a heavy burden, yes.

Mr Grandmaître: So that is the message you will be bringing to the commission: Enough is enough.

Mrs Berman: I am certainly not prejudging any of the issues. As I have said before, I am no expert, and there is a huge body of literature that I am sure is going to be available, and I will look at each issue from every angle. I am not sort of going there to beat a drum. I will have a concern, of course, based on the sector from which I come, and I will bring that perspective because I think that is why I was asked to join. But I will try to be objective.

Mr Grandmaître: Good. You are also a member of the Crestwood School Parent Association?

Mrs Berman: Yes.

Mr Grandmaître: What do you think of school taxes?

Mrs Berman: I think they are a heavy burden when your kid goes to private school, but they are a necessary burden. We have to support the school system. It is very important that we have quality education available for all. So I think they are an important issue.

Mr Grandmaître: Do you think people in this province are willing to pay more education taxes in order to provide their young children with a better education, that they would prefer an increase in education tax to an increase in municipal tax?

Mrs Berman: I would suspect so.

Mr Grandmaître: Yes. Why is it that people are dead against municipal tax increases and much more open to an education tax? That has been my experience.

Mrs Berman: I think no tax is easy to sell. However, if there is a perceived real good associated with it that people can really understand and they feel is going to benefit them directly, then I think that is an easier concept for people to absorb.

Mr Grandmaître: For years and years I thought the same way as you did, that education tax is for a good thing, but it seems that you find very few people in the province of Ontario that are satisfied with the system and yet are willing to pay more taxes.

Mrs Berman: I cannot comment for all the people. I know there are some very good schools and I know there are some schools that need help. That is a large issue as well, I am sure, that has to be looked at from an expenditure point of view.

Mr Grandmaître: Good. Talking about school taxes, do you favour pooling? Are you familiar with that?

Mrs Berman: No.

Mr Grandmaître: You are not? That is good, because every one of us is, but we do not know what we are talking about yet, though.

Mrs Berman: Maybe I will learn.

Mr Wiseman: Speak for yourself.

Mr Grandmaître: I will pass.

Mr Sola: This question has been posed to every witness so far, and I guess I may as well be the one to pose it to you. Do you have a party affiliation?

Mrs Berman: No.

Mr Sola: Okay; another independent. Second, you are from the Toronto area, right?

Mrs Berman: Yes, not born and bred, but—

Mr Sola: No, but I mean your business, and you live here?

Mrs Berman: Yes.

Mr Sola: How were you affected by the commercial concentration tax that the previous government brought in?

Mrs Berman: I am not familiar with that.

Mr Sola: Okay. I was thinking because that seemed to centre on the Metropolitan Toronto businesses, since the majority of witnesses or appointees will be from the Toronto area, that may colour their objectivity; you know, something that has affected them and their business, if it would alleviate their problems, if it would shuffle off some of the costs on to the rest of the province. I am just wondering, with the heavy concentration on Toronto-area residence or business involvement, that may colour the viewpoint and the objectivity of the members who are from this area, as opposed to only two being from outside the GTA.

Mrs Berman: Speaking in a general sense, I would assume that all of the people who have been appointed would do their best to speak from a larger perspective. I do not think any of the members, and certainly not myself, are going to be speaking only from our own, next-year's-tax-return point of view. Unlike myself, there is a lot of experience on the commission in the tax area. I would expect people to be looking more broadly at the issues than that. I do not see that it is a concern.

Mr Sola: Yesterday we had a witness who said she had a constituency that she had to represent. Do you have a constituency that you have to represent?

Mrs Berman: Not really—I think in only the loosest of terms in that I could possibly bring a true small business perspective to the commission. But I do not represent a group per se.

Mr Sola: Thank you very much.

Mr Sterling: As a small business person, do you like taxes at all?

Mrs Berman: I see them as necessary to run our society. Naturally I do not like to see them swallow the lion's share of what I make in a year, and I like to see them used well, like any Canadian, but I recognize they are necessary, of course.

Mr Sterling: I was not surprised with your answer about the GST. Do you think our present system of taxation is unfair, and in what ways is it unfair?

Mrs Berman: I think the GST is an example of a somewhat regressive tax in that it is a heavy burden on the average consumer household. I think it is unfairly distributed, frankly. It is a lot easier for a wealthy person to buy new goods for his household and face that additional tax than it is for the average fellow in the street, and I think that is somewhat unfair.

Mr Sterling: What would be the alternative to doing that?

Mrs Berman: I do not know. There might be certain categories of goods that are not subject, such as children's wear. The goods that have traditionally been not subject to PST are now subject to GST; that is a concern and that may burden the young family or the single parent with children.

Mr Sterling: So it is not so much that the GST is there but what it encompasses.

Mrs Berman: And I do not think it should be on profit, which it is as well.

Mr Sterling: It should be what?

Mrs Berman: The former tax was on the cost of the goods, and the present tax of course is on cost plus any kind of markup that the retailer has put on it. I think that is somewhat unfair.

Mr Sterling: Why?

Mrs Berman: The consumer is already bearing the profit margin; I am not sure he should have to pay a tax on that profit as well.

Mr Sterling: I guess then you disagree with the provincial sales tax as well.

Mrs Berman: I am looking at this as an added tax. The total tax burden is now 15% for the person who wants to go out and buy a pair of shoes for his kids. That is just my personal concern.

1110

Mr Sterling: I would have thought the response from a small business point of view would have been a little different in terms of confining the range of goods that it would be on. I guess in New Zealand when they brought in the value added tax, they put it on everything; they just said food and everything is taxable that it is practical to tax, the idea being that the small business person is not in the conundrum of deciding what is not taxable and what is.

Mrs Berman: I am well aware that this is a burden for some businesses. It is not for ours, and not every category of service we offer is taxable. That is reasonably easy for us to administer, but certainly the small grocery owner faces that complexity.

Mr Sterling: How long have you been in business?

Mrs Berman: Eleven years.

Mr Sterling: Has it ever lost money in any one fiscal year?

Mrs Berman: Yes.

Mr Sterling: I presume you were able to write that loss off against profits in a subsequent years.

Mrs Berman: Yes.

Mr Sterling: Do you think that is right?

Mrs Berman: Yes.

Mr Sterling: So you would be against a minimum corporation tax.

Mrs Berman: I have not prejudged that. I do not know what would be involved. I do not know how it would be applied. I do not know what the exceptions would be. That is a difficult question to answer without that information. Sure, I would have a concern, but I would look at it.

Mr Sterling: That was the greatest concern when the Agenda for People, of course the party that was in power, promised to have a minimum corporation tax in its agenda. Many of the small businesses in my area said, that in a year like we are in now, in a recessionary period, if they want to hold on to their employees, they are willing to take a loss this year in the hope that they will make a profit next year and then be able to write that off against whatever profits they would do there.

I think it is very important for business to understand early on in your mandate what you are going to do on that one, because I think business people are reluctant to ride this recession the same way they did in 1981-82. They are going to lay off people faster in this one.

Mrs Berman: I think it has been a tougher one.

Mr Sterling: It is a tougher one to predict what is going to happen to them tax-wise down the road. What do you think about succession duties death taxes being brought in by the province?

Mrs Berman: I am not in favour in general. Again, it would be something I would want to look at: how it would be applied, when it would be applied, etc. I also believe it might be fairly difficult in that it simply might force a lot of people to plan earlier and to place their funds elsewhere and it might be kind of a vanishing spectre. It might cost a lot of money to try to administer and the end result might be that funds would be invested outside the province, and I am not sure that is really a good thing.

Mr Sterling: In your case, where you have a small business, you have a five-year-old son who might be interested in taking over the family business somewhere down the road. I think it is already difficult because we already have a form of death taxes in this province and in this country in that you have to pay a capital gains tax of 75% of the value of the business.

Mrs Berman: It would be a concern. I think any wise business person looks for ways to place himself in a situation where that could be minimized.

Mr Sterling: Have you any idea—I have no idea—of what kind of time commitment is going to be required on this kind of commission?

Mrs Berman: Initially it was suggested that it would be somewhere between three and four days a month. Based on the mandate as I have read it, I suspect it is going to be significantly more, certainly if one wants to do the reading that would be necessary to make informed judgements.

Mr Sterling: In terms of the tribunal, how is it going to conduct its business?

Mrs Berman: We do not know. That has been left fairly loose in the terms of exactly when we would meet, if that is what you mean, and for how many hours at a time and whether it would be during the day or at night. I think that has been left to the commissioners, once they are approved by this body, to arrive at sort of comfortable working conditions.

Mr Sterling: Other than the GST, which you have no mandate over, do you believe there is other unfair taxation taking place in the province at this time?

Mrs Berman: I am not personally experienced enough to say whether there is or is not. I would suspect there might be. It is hard to come up with a system that is completely equitable.

Mr Sterling: I agree. I guess I am trying to think about what your mandate is. Are you going to start from the Agenda for People, which talked about a minimum corporation tax and a death tax?

Mrs Berman: I am going to review the agenda with the other commissioners and I am going to try to bring a small business perspective to it. I am sure they are all going to bring their own perspectives to it and we will try to arrive at a consensus that achieves some equity.

Mr Sterling: I am very impressed with your experience and I think it is great that you give so much of your most valuable time to this endeavour. I know you have been asked by a New Democrat and a Liberal both whether or not you have any political affiliation. I am a Conservative and I would ask you if you want to have a political affiliation.

The Chair: Anything further from the third party?

Mr Sutherland: If I can just come back to the issue that I think Mr Grandmaître and Mr Sterling raised, talking about taxes—the GST and the provincial sales tax—from your perspective as a small business person, is the problem with the rate of taxes or is the problem with the accounting procedures and the amount of time it takes to figure out and for remittance and those processes? Is that a real problem?

Mrs Berman: No, that is not a real problem.

Mr Sutherland: Not in your business?

Mrs Berman: I am sorry. If you are speaking of the normal annual corporate tax, it is not a problem. As far as GST is concerned, given that we are fortunate enough to be computerized, for us, once we did the initial computer changes, it is not a tremendous burden. For the average small business that is not large enough to be computerized, I would imagine it is a significant burden.

Mr Sutherland: But speaking in general about taxes on small business in terms of the process, from your sense, and I am sure with your business dealings you interact with a lot of other small business people, is there a sense of frustration over paperwork and processes in that or is it just generally the rates?

Mrs Berman: I think where GST is concerned it is paperwork and process, because the small businesses do not bear the burden of that, in that they are able to deduct it. Where the other taxes are concerned, I think it is the global amount. The small businessman looks at workers' compensation and OHIP and all the various sorts of government-mandated programs, and the total is high.

Mr Sutherland: Thank you.

Mr Owens: One quick question. The previous government levied the commercial concentration tax on businesses in Toronto. Did it have a significant impact on your business and the business of your neighbours?

Mrs Berman: As I said before, I am not familiar with it and no, I do not believe it did. There have not been any significant changes in our tax situation, except for the inventory tax credit, in the last 11 years.

Mr Owens: Thank you.

The Chair: Another tax you have not been asked about which has been applied, and I know that small businesses in my area had a lot of concern about it and still do, is the employer health levy, or the health tax, however you wish to describe it. What has the impact been on your business in respect to that?

Mrs Berman: Quite significant. I would say that most small businesses prior to this new law paid a small percentage of the OHIP as a courtesy to staff or as an attempt to attract good-quality staff. They really could not face the burden of the whole thing. We always paid the whole thing, so it was somewhat disconcerting to find ourselves with yet a larger burden even though we had taken care of that cost for our staff since day one. We pay fairly significant premiums.

The Chair: Obviously that is something that as a small business representative you are prepared to take a look at as a member of this commission.

Mrs Berman: Yes.

The Chair: This perhaps does not apply to you—I think it does not apply to too many small businesses in the Metro area—but do you have any views in respect to the minimum wage and its impact on small business?

Mrs Berman: Naturally, any change in the minimum wage does have an impact. It does not impact us directly in that I do not think we have ever been in the position of actually paying it. I think it is an important thing to have. I think there is a certain standard of living that people are entitled to receive.

The Chair: In your business do you provide pensions for your employees?

Mrs Berman: Not pensions. That is really beyond our abilities. We are neither big enough, nor have enough funds. The only thing we can offer is a small insurance program through one of the outside insurance companies which gives them life insurance and a few benefits.

1120

The Chair: One other brief question. I am sort of fascinated by the selection process. Yesterday we had a lady who was representing organized labour and she indicated she was going to be a voice of organized labour on the commission. When we talked about the selection process, she said that apparently, as she understood it, the government had contacted the Ontario Federation of Labour and her name had been submitted. I understand, or I am assuming perhaps, that when you were contacted there was some reference to having a small business person represented on the commission. I am curious about the process, one for labour, where they go to an organized group, if you will, and say, "Can you come up with a representative?" In your case, have you any idea how they arrived at your name? Was there some approach to small business organizations?

Mrs Berman: Not as far as I know. I believe that a person who worked in Treasury, unbeknownst to me, had been approached as to whether she knew anybody suitable and may have given several names or just my name. I really do not know. I did not question her. That is how I believe they got my name.

The Chair: Perhaps you do not want to be specific about the individual, but was this a senior person in Treasury who knew you personally and felt you might be appropriate in this role?

Mrs Berman: Reasonably senior, yes.

The Chair: Thank you very much for appearing before the committee this morning and answering our questions.

Mrs Berman: You are welcome.

The Chair: We appreciate it.

Mrs Berman: A pleasure.

The Chair: Our clerk is going out on another search mission. We are a few minutes ahead of schedule. This is a pretty effective and efficient committee.

While we have a couple of minutes, I will remind members that there are no further meetings of the committee until the House resumes its sittings in March, but we are hoping to have a subcommittee meeting within the next two weeks. We have to decide on a number of things. Hopefully, representatives of all three caucuses will be able to attend that subcommittee meeting.

ROBERT COUZIN

The Chair: Welcome, Robert Couzin, an intended appointee as vice-chair of the tax commission. Mr Couzin was selected for review by the government party. Mr Couzin, would you like to make a few brief comments before we open the floor for questions?

Mr Couzin: No, not really, thank you.

The Chair: Okay. That is fine. We will start right away.

Mr Sutherland: Yes. A question that has been asked every person who has appeared before this commission is whether he has any political affiliation; so I guess in fairness the question should be addressed to you as well. Would you care to comment?

Mr Couzin: No. I do not know what a political affiliation means exactly, but I am not a member of any party.

Mr Sutherland: That was basically what we were looking for. Do you have any concerns about the makeup of the commission or the backgrounds of the other individuals

in the sense of that it may not be a fair-minded group of people or that it is slanted, with too many people representing one area?

Mr Couzin: I suppose I cannot say that I know how it will end up, but I do not have concerns, in the sense that if I were really concerned I would not be agreeing to do it. I was not involved in choosing the people, of course, but I certainly did ask in the process to see what the list of people looked like, and my judgement, not knowing the people really, is that it should be possible to make it work. Otherwise, I would not be prepared to do it.

Mr Sutherland: I am looking at the CV that was presented to us. You have extensive knowledge of the Canadian tax system and have been involved in writing papers in magazines and journals that discuss this issue. I was wondering if you could comment on the issue of how you define fairness or equity in the tax system.

Mr Couzin: That is a big question. I think the reality is that there are different aspects to fairness. Traditionally, fairness is defined as similar tax burdens on people with similar economic circumstances—horizontal fairness. Fairness means trying, to the extent the tax system ever can, to be neutral and not treating different transactions which accomplish the same result differently. I do not think tax systems ever quite get to that, but I think that is a theoretical basis.

The trouble with defining fairness is that we are only looking at the tax system, which is the revenue-raising part of things, and society defines fairness a little differently and looks at how it spends money too. The tax system is inherently part of the spending process, so I guess society as a whole makes certain decisions about fairness, like redistribution, and all the tax system can do really is follow along on those decisions.

I guess what I would see the commission trying to do is accepting whatever society has decided to do, like support medical care or whatever, certain things our society has decided it is going to do, and try to share the load of paying for those services as fairly as possible—"fairly" meaning that people in similar circumstances pay the same burden, and different businesses pay burdens which are equivalent, having regard to what they do. That is, of course, difficult to define.

Mr Sutherland: One other question, just on those who are in similar circumstances paying the same amount. Do you think there is any room within the taxation system to look at productivity in terms of what those people are doing? For example, if two people have the same amount but one is just sitting on the money versus the other person investing it in the economy, should there be some consideration in the tax system or should that be a separate type of policy decision from the tax system?

Mr Couzin: I am not sure that is a fairness question. It certainly is a fair question. It is a question which is often asked and our system does make certain distinctions although I am not sure for the reason you are suggesting. Our system distinguishes between capital gains and other kinds of income, but I do not think it does it because of what you are saying. I guess, in theory it should tax capital gains more, if that were the case. But there are other reasons, ad hoc reasons,why capital gains are taxed differently. There are tax systems which do just that: tax investment income differently than active income. I do not really know enough, frankly, about those to know whether it works. If it increased productivity, I guess it would be a great idea, and I am not convinced it does not. I do not think there is anything inherently one way or the other to answer that. I do not think it is more or less fair to do it, I think it is just a question of whether the tax policy accomplishes what you are trying to accomplish.

Mr Wiseman: I see in your CV "business and property income 1981, corporate management tax conference." There have been a couple of well-publicized cases where large landholders in Metropolitan Toronto have pursued in the courts property tax exemptions. If I understand correctly, the city of Toronto is having to go back to court to appeal this. Have you any comments on the property tax with respect to these large landholders in downtown Toronto?

Mr Couzin: Not really. I must confess that we are all going to learn something on this commission. One thing I am going to learn is something about property tax, that I know very little about, other than that I pay it. I have never really completely understood why there is a property tax. I guess it is a funny kind of wealth tax, because it only taxes one particular kind of wealth. In fact, from what I gather, it is a tax which is peculiar to English-speaking countries. Most countries in the world do not tax real property the way we do.

I guess the fairness point would be that if you are going to have a property tax it should apply to the property. I do not really know anything about the case you are mentioning, so I do not know why people are getting exemptions. Generally speaking, I think tax systems are better with fewer exemptions. That is probably a true statement. We are seeing that with the GST now. It is very difficult to construct tax systems, and you are constantly trying to give away little pieces in the system. But I cannot really comment on anything particular about large landholders, and I cannot see a reason why large landholders pay less than small landholders. I cannot imagine anyone arguing that proposition.

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Mr Wiseman: I am also going to pursue another track with you about research and development and tax exemptions and investments. I have raised this with a couple of other people who are far more knowledgeable about taxation than I am. One of the things that always bothered me was that as a taxpayer, I would see large corporations getting R and D money, and then I would read later on that the patents and the royalties accrued to it—the home office is supposed to be in Canada. How would you view the notion that somebody would get a tax break to encourage research and development and then turn around and see all of the wealth that would be acquired from the research and development go outside of the province or the country?

Mr Couzin: Of course, there is a difference between the province and the country. But addressing the country, the answer to that probably is that it should not be possible. You may be raising an administrative concern rather than a

legislative one, because the way the system works is that if someone creates an intangible knowhow or whatever from doing research in Canada, you are not supposed to be able to simply ship it off to your parent company without paying tax on that. If it is done, it suggests that perhaps the people who administer the system had missed it or some arrangement has been worked out which arguably is an avoidance transaction or whatever.

But I think our system already does at least purport to protect the country against that. Whether it is effective, I do not know. The Americans have had the same problem, oddly enough, as we always see our technology going there. It is funny to think that they worry about it too, but they worry about it too and they have come up with a very unwieldy system designed to prevent that kind of effect. I would like to think that, roughly speaking, the system we have now would prevent it if we could enforce it properly.

But I think your point is well taken. Obviously, it is like any business expenditure. If you expend money in a jurisdiction and you deduct it or get credits for it or whatever, what results from it is supposed to ultimately produce income in that jurisdiction. I think that is the principle of our tax system.

As I say, the province is a little bit different, because one of the other issues our commission is going to struggle with, I am sure, is the nature of a federal tax system, which is a little more complicated. I am not sure how you would come up with a system, if you wanted one, that tried to recapture credits that Ontario gives to a company operating nationwide and earning income in various provinces.

Mr Wiseman: For me sitting here as a member of the government, that is a question that I am hoping you, as a tax commission, will be able to give me some guidance on. As I go through all of the CVs, and we have spoken to just about everybody now, there is certainly a larger amount of information and knowledge about the tax system with you than there is with me. While I have these concerns, I am hoping that the tax commission will genuinely come up with information that I can use in my own thought and policymaking processes, and I think I speak for everybody when I say that, that we are really looking for answers as opposed to having any pre-designed notion of where you should go.

To pursue that a little, when I see the previous couple of tax people, I would love to hear the debate between Mr Brooks and Mr Poddar. I think there are going to be some really exciting differences of philosophy, about cheating and the impact of cheating and threshold taxation. Could you perhaps go down that road for a little, about how you see the threshold taxation? Is there some amount that is too much or is there some ideal amount of tax or how do you view that?

Mr Couzin: I do not really know the answer. I am not an economist. I have read papers which purport to be able to show with some kind of curve that when you pass a certain point, the more you tax the less you collect. I guess it must be true when you get to 99 or something, and obviously at 0 you collect 0. I have never really been sure about the middle.

Mr Wiseman: It is The Laffer curve, I think.

Mr Couzin: Yes, the Laffer curve. The more serious point, which maybe we could actually think about, which I think the commission should think about, is cheating or the underground economy or whatever. It seems it is a very serious problem, and I do not really know that I have ever seen any very good ideas about how to tackle it. But from a practitioner's point of view, I would have to say that in so far as anything could be done to tackle it, the problem has been a lack of will on the government's side in that what measures have ever been brought up that might make slight inroads into this have been very difficult to enact. It took years to enact social insurance number reporting because it was regarded as an invasion of privacy or whatever, and it is hard to see what privacy one is invading, really, by getting the social insurance number on a slip. Things like that have been difficult in all countries, not just in Canada. But yes, I think the commission should certainly have a look at that.

There is also a theory that you would get better compliance if the tax system were perceived to be fairer. I suppose again that has to be true. I do not know how the relationship works, but I presume that is one of the reasons the government wants the commission set up the way it is set up—the broad-based commission and constituency groups and everything. I presume it is in part to give society as a whole a feeling that it has had a say in the tax system. Maybe that will help compliance. It would be nice if it would. I do not know if it will.

Mr Johnson: In Ontario there have been many industrial and manufacturing jobs lost recently. There are many reasons, I suspect. I would be inclined to blame free trade by and large; certainly global trade has had an impact. We can also attribute some of the blame to the recession, interest rates and the relationship of the Canadian dollar to the American dollar. The federal government certainly has a need for revenue; it has its bills to pay, and certainly we would like to see it reduce the debt, ultimately.

This is just my opinion, and I wanted your comment on it. I think there is a connivance on the part of the federal government, that it knew we would lose these industrial jobs as a result of the free trade agreement although it certainly did not espouse that. I think that as a result of that they have introduced this very regressive goods and services tax, regressive in so far as the poor element in our society pays proportionately more of their income than do wealthier people. The other argument, I guess, would be that wealthier people buy more so they pay more. I do not buy that, quite frankly.

They call it restructuring the tax system. Do you think the GST was a response to the fact that they would lose revenues as a result of many factors?

Mr Couzin: As I understand it, the main impetus behind the GST—kind of an indirect impetus, if you like—was to get rid of the manufacturers' sales tax, which I would have thought Ontario, of all places, should agree with, because the deficiencies in the manufacturers' sales tax hurt industrialized economies; this is the main one, I suppose. Once one was going to get rid of the

manufacturers' sales tax, the federal government—as you say, it clearly needs money—certainly was not about to give up the revenues from the manufacturers' sales tax; it had to get the money from somewhere else. The somewhere else that was chosen, the GST or the value added tax, I do not know whether that was the best place to have gotten the money. It is interesting. There have been a few articles written recently by a number of economists who suggest that there were different, very simple places to have gotten the money which did not require this whole structure.

I suspect that part of the answer is that there was a feeling in government circles that the mix of consumption tax, income tax and other taxes had gotten off. Over the years, consumption taxes had gone down and income taxes had gone up—I do not know why the mix matters, but I guess it matters to somebody—so we should have more consumption tax. I have always been a little sceptical, thinking maybe it is just that the more taxes you have, you spread it around and people do not get quite as excited about it. You have to get it from somewhere and higher income tax rates are more visible. If that is the case, they obviously miscalculated, because the GST turned out to be very visible. Whether it is a good tax, I do not know. I do not think it is a very well designed tax. I do not know whether it is regressive. I think it is dangerous to look around at your friends and what goes on in the street and try to decide whether a tax is regressive. It is a very complicated question, whether it is regressive.

I think the notion of value added taxes is probably not a bad idea. Whether this is a good one, I do not know, when you say the motivation for the GST was that the government needed money if it was going to get rid of the MST and this seemed to be a good way to get the money.

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Mr Grandmaître: Mr Couzin, not being affiliated with any political party, how were you invited to grace the table of the tax commission?

Mr Couzin: You have the wrong witness for that question, I suppose, because I do not really know the answer to that. I gather that the people putting together the commission were looking for some kind of balance. It is for them to say what they were balancing between but, I think one can tell looking at the list, sort of what they were up to. Presumably, they wanted a couple of tax practitioners. Perhaps they even wanted a tax lawyer. I do not really know that.

How they got to me, I do not really know, quite frankly. The community of people who practise tax actually is surprisingly small. You would think there would be oodles and oodles of people. I guess there are lots of people filling out tax returns, but there are not actually that many tax practitioners who go to conferences and know each other; so the list would not have been that enormously long. How it ended up at me, I do not know. I suppose over the years I have expressed some interest in policy issues and a lot of tax practitioners do not express such an interest. That may have been relevant, but I do not really know how they ended up with me. I do not know the people who called me or anything.

Mr Grandmaître: You do not know the people who called you?

Mr Couzin: No. I know who they are now. I did not know them when they called me, so it was no connection with the government. I have worked with governments in the past. I have acted for the Alberta government and I have done some minor consulting for the federal government, but I have never done anything with the Ontario government other than argue with them occasionally.

Mr Grandmaître: So you were totally surprised when you received this phone call?

Mr Couzin: Yes.

Mr Grandmaître: You must have been on somebody's short list.

Mr Couzin: Maybe I was on somebody's long list. I do not know where I was on that list either, of course.

Mr Grandmaître: You just told me there was a short list of tax experts.

Mr Couzin: As I say, I assume there was some kind of list and they presumably talked to other people and asked for recommendations. Of the commissioners who are now on this list, I know two of them. I did not know any of the others before. I know Neil Brooks, just because I have known him for years.

Mr Grandmaître: Everybody knows Neil Brooks.

Mr Couzin: That is true. And I know Satya Poddar. I know them just because, as I say, tax practitioners or people in the tax business tend to know each other. I do not know whether they were asked. I really do not know where my name came from.

Mr Grandmaître: That is very interesting.

De quelle façon est-ce que vous êtes devenu le président de l'école Toronto French School ?

M. Couzin : Le conseil d'administration.

M. Grandmaître : Qu'est-ce qui vous a intéressé, qu'est-ce qui a suscité —

M. Couzin : J'ai une fille qui est étudiante à l'école. J'en avais deux, mais l'autre n'est plus là. C'est un accident, effectivement, parce que l'ancien président —

M. Grandmaître : Le deuxième accident.

M. Couzin : Le deuxième, mais ça c'est le premier. L'ancien président du conseil était en train de démissionner et on ne pouvait pas trouver quelqu'un qui voulait prendre la présidence du conseil. Ce n'est pas facile parce qu'on n'est pas payé, évidemment ; on prend beaucoup de temps. Ma femme était présidente de l'association des parents de l'école à ce moment-là, alors on m'a choisi.

Mr Grandmaître: Do you think the provincial government should use public dollars to subsidize private schools?

Mr Couzin: That would be a wonderful idea. Actually, it is an interesting question, because before I got involved with the school I knew very little about independent schools or how they worked. I went to a conference of chairs of schools recently and I learned, somewhat to my

surprise, that many provinces do in fact provide some funds and that the independent schools over the years have not wanted funds from the Ontario government, I guess because they are independent schools. It was always the fear that if you took money you would lose your independence. But then there is the view among some that of course they have already lost some independence anyway; just because you are a school, you have to comply with rules. I would not have thought it very realistic at the moment to expect funding for independent schools. I would not be against it.

Mr Grandmaître: You would not be against it? That is interesting.

Mr Sola: You mentioned that for tax evasion and for the underground economy, quite often it has been a lack of will on the government side that has allowed this to flourish, so to speak. Do you have any recommendations or any methods in mind that would help the government get the will to start going after these evaders?

Mr Couzin: I think it requires a bit of public relations work, of attitude work in society. It is a problem of the fairness of the system, unquestionably. There is difficulty in trying to collect money: tips from waitresses or something because after all they are not very well paid to begin with and it does seem a little bit cruel to people. Of all people to go get additional revenue from, why are you getting it from people who do not earn a lot of money? On the other hand, once you have a tax system that you think is about as good as you are going to get, it really is a duty for people to comply with it.

I do not have any magic answers. The problem is that when one goes after—"goes after" is perhaps the wrong expression, but when one tries to get at the underground economy, the tendency is that it is always some group or other that is being targeted, and as you can imagine, targeting farmers, for example, does not tend to be very popular politically. In fact, it sounds bad because it suggests that farmers are tax evaders or something, which obviously is not the point. The point is that there is some particular measure that government is trying to enforce, which happens to affect farmers or taxi drivers or whatever more than other people. I do not know how governments get the people on their side, but I guess somehow the government has to get the people on their side.

Mr Sola: I see from your curriculum vitae that you have extensive Canadian experience. Do you have any other than Canadian experience so that you could sort of make comparisons between other systems and our system and other provinces and our province?

Mr Couzin: Exposure perhaps, better than experience. I do a lot of international work so I have certainly seen a lot of the US tax system, although I would hardly pretend to be an expert in it. I find it frankly more complicated than ours. Maybe that is just because I am looking at it from the outside. But yes, I have certainly seen other tax systems. I am not an expert in all other tax systems.

There is no question that is something the commission is going to have to do, some comparative work, but that is just without question. I understand some US states in the past have done a bit of work on state tax systems. Now it is different, of course. The allocation of powers is different and the structure of the system is different, but there are some similarities in any federal state.

I do not know whether Australia has ever done anything. Federal states would be the place of particular interest. I am looking at the UK, for example. There are global things that one can learn from any taxes and they do not have the two levels of government.

Mr Sola: I see one of the articles that you wrote or helped write has the heading, "More Questions Than Answers." On this commission we are hoping you would come up with more answers than questions. I am wondering if after that conference you have arrived at any answers that might be helpful to the commission you are going to be on.

Mr Couzin: That is interesting. That particular paper, "More Questions Than Answers," was on the anti-avoidance rule which was enacted recently. I guess we will be lucky if we get the same number of answers as questions. I do not have any answers. I think the system obviously needs some work; there is no question about it.

I suppose I have overall prejudices. I think the system tries, like many systems, to do too much. I do not know that I would go quite as far as Neil Brooks probably goes in suggesting that there should be no incentives delivered through the tax system. It might be nice, but I do not know that it is realistic. Provincial governments are probably offenders even more than the federal government, at least now, in trying to use the tax system to get all different things done which probably should not be done through the tax system, and it creates perceptions which are very bad.

The loopholes perceived by the public are often just government attempts to give away money through the tax system. Maybe if they just spent their money and tried not to give it away through the tax system that would not happen. I guess that is one overall objective. But I do not know. I suppose we will just have to see what we learn.

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Mr Sola: I wish you well on your deliberations, and that is the extent of my questions.

Mr Sterling: I am very impressed with your amount of experience and the amount of writing you have undertaken. I have sat for the past three weeks on another committee of this Legislature dealing with pre-budgetary consultations, and economist after economist, group after group came in and said our primary concern in Ontario was competitiveness. I guess part of that equation is our taxation system, and I was glad to hear that you are going to pay some attention to that. You are going to be the vice-chairman of this commission. Do you at this point in time have any instructions as to the range you can go to? If you are dealing with "fairness and taxation," you almost could develop another Agenda for People.

Mr Couzin: I suppose that is true. The only restriction that I know is on this commission is that it is supposed to deal with taxation. But you are right that taxation is in the midst of everything else. We have had essentially no discussions with

anybody about the commission. The only discussions I have had were that in going through the process of deciding whether to accept, I did ask some questions as to what the commission is supposed to do and what its terms of reference were. I do not mean the written-down terms of reference, but what anybody really expected from it. One of the things that I did say, which I suppose echoes what you are saying, is that fairness is one way of looking at the tax system, but of course there are a lot of other things about the tax system, and the way tax policy is formulated is by a series of tradeoffs.

One of the troubles is sometimes in making the tax system fairer in a very small way; in other words, just a little aspect of unfairness to some small group of people which might be handled in some other way. We try to make it perfect. That is a very bad idea, because it gets terribly complicated, hard to administer, more expensive, less efficient and ultimately less fair since complexity tends to breed all different kinds of avoidance and other problems. Fairness has to be weighed against complexity, competitiveness, efficiency and, of course, raising revenue. It might be very fair just not to charge any taxes, but of course we need the money.

I do think it is part of the mandate of the commission, as it looks at the tax system, to say we are trying to improve fairness, and that may be the focus, but what we are really trying to do is make the tax system work better. It does not work well, obviously, if it is very unfair, but it also does not work well if it does not raise revenue and it does not work well if it makes us uncompetitive. We are going to have to balance those things as we go.

Mr Sterling: One of my other questions was, were you going to weigh the complexity issue against fairness? I am glad to hear that you are willing to give away some fairness in order to keep the system somewhat simple. I hate to put it this way to you, but we will have more unproductive people like you in our society. I often feel that we are unproductive as well; I am not denying that part of it. But the accountants and the lawyers and all the rest of the people are not producing primary wealth. It can be argued that way anyway.

One of the issues which was raised in the other committee I was sitting on, again dealing with looking at our economic future, was the whole problem we are having with shopping in the United States. The immediate reaction of a government on this kind of thing is to dump it on the federal government in terms of saying: "Okay, people are coming back. They are not paying GST. They are not paying provincial sales tax. We want the feds to collect all the tax." One of the statements you made is that some of the loopholes or the evasion of taxation could be avoided if a government took strong action. It is very easy for a government to say to another government, "You take the strong action for us." What are you going to do in terms of the interrelationship between provincial taxation, municipal taxation and federal taxation?

Mr Couzin: I have already mentioned a couple of times that this is one of the tricky aspects of this commission and indeed one of the tricky aspects of having a federal-provincial tax system. Provincial-municipal is not as bad, because at least the province is in charge, but nobody is in charge of the federal-provincial side of it. It is negotiated. I think that is part of the challenge: to design something that fits in the reality of those systems.

Ontario collects its own corporate income tax partly in response to that kind of concern. Someone decided once upon a time that to get mastery over that aspect of the economy or the fiscal policy or whatever, Ontario needed its own corporate income tax. There are people who think Ontario needs its own personal income tax. I suppose it is possible, but you have to weigh the pros and cons.

As a citizen as opposed to a practitioner or prospective member of the commission, I am always very disappointed to see governments squabbling over things when they are supposed to be getting something done, but I guess I recognize the political realities. There are lots of things that the federal government and the provinces—not just this province—should be agreeing on, and over the years there have been major tax incentives which have fallen by the wayside simply because the governments could not agree on them. There is no question that any commission that looks at a provincial tax system has to look at the federal-provincial co-operation aspects of the system. It is critical.

Mr Sterling: Another part of your comments which I found interesting was the whole idea of the portrayal, particularly by the government party, that corporations were jumping through loopholes in our taxation system which were not loopholes at all; they were provisions provided to business to take advantage of certain rules to delay taxation, in most cases in order to invest and there were other ways to deal with it.

As you say, there is this fixation in the public's mind and in government's mind that if you give a deduction off your tax, that is not writing a cheque but it is equivalent to writing a cheque as far as I am concerned.

One of the considerations we talked about last week in dealing with the Treasurer was, in your fair taxation tribunal, will you be suggesting any methods of reporting taxation? I think the public would have a better idea, and if the government wanted to give a deduction, there are a lot of advantages to giving a deduction off your taxes rather than collecting a cheque and issuing it again, because there is an administrative problem in doing that. I would really like the Fair Tax Commission to advise the Treasurer whether or not he should change the method of keeping his books. Have you considered that at all?

Mr Couzin: I had not considered it. I do not know about the method of keeping books, but reporting is certainly an interesting question because there have been a few attempts, but very few, to report on so-called tax expenditures. The federal government did it some years ago and there was a big conference at Queen's, I think last year or the year before last, on the whole question of reporting tax expenditures. Naturally, the more you look at it the more complicated it gets as to what are tax expenditures. But a lot of that is covering over the issue, because some of them we know; some of them are very obvious. If Ontario enacts

some special grant for research and puts it into the tax system, it is pretty obvious that it is a tax expenditure.

While I had not thought of it, I do not see why it would not be within the commission's mandate, not certainly in any report but in the role of the commission, for it to be advising the Treasurer that it would be a very good idea to come up with a system for reporting on or publicizing or measuring—even for that matter before we get to reporting—these expenditures made through the tax system. The only thing I would say is it is curious to think that in the course of getting a handle on tax expenditures we would lose track of the other expenditures. I do not know if it is in the commission's mandate, but I have always been mystified in the budget process why we separate or purport to separate the raising of money from the spending of money. The tax expenditure thing just proves the point, certainly in the fairness context. Obviously, what you spend your money on is rather important too.

We can see this thing being blurred all over when you move health insurance from one kind of levy to another, or if you just charge for it at the hospitals or whatever; you are just moving things around. You obviously cannot look at one piece without looking at the whole puzzle.

Yes, I think reporting and measurement are certainly things we will be looking at.

Mr Sterling: I believe, for instance, that you could say to business, "We're going to give you some kind of capital cost allowance"—in other words, to get people to invest in machinery. "We're going to give you a quick write-down on your machinery. We will let you write it off over two years." I do not know what the rules are now, but whatever. If that was stated in the budget, I think the public would have a greater confidence in the system as long as it was up front. Then business could not be charged with the fact that it was evading the system, or that is what the public thinks, instead of clearly being allowed to postpone that tax.

Mr Couzin: I agree with the proposition that we should measure and report it. I am not sure I am quite as confident that this in itself would change the public perception, but I think it is certainly in the right direction.

Mr Sterling: The last thing is just a bit of advice from a former Treasurer who I think was one of the most brilliant treasurers this province has ever had, during the 1970s, Darcy McKeough. His measure was that an existing tax was a good tax because—I think that has been exhibited by the federal government's attempts to reform our taxation system—It is difficult to change the system of taxation.

The Chair: Mr Couzin, I would like to ask you a quick question. Many of us are intrigued by the process with respect to selection and you indicated earlier, I think in response to Mr Grandmaître or one of the other members, about providing balance on the commission. That was your perception, in any event. I wonder who you think you are balancing off against. Do you have any views on that?

Mr Couzin: Hopefully, it is not one on one. I like to think that what the Treasurer, or someone in the Treasurer's department, was trying to get was an overall balance. Of course, you would never get it right. You would need 200 commissioners to get a little bit of everything. No, I do not have any particular view of who I am balancing off against.

The Chair: You mentioned a disagreement on one issue with Professor Brooks, who appeared before us yesterday. Are you familiar with his writings, his works, his views with respect to taxation generally?

Mr Couzin: Some. Frankly, more just from talking to him. I disagree with Neil about lots of things.

The Chair: All right. That is what I wanted to have put on the record. Obviously you are not getting involved in this for financial reasons because the per diem is not something that is going to attract individuals like yourself.

I have posed this question to a number of other people as well with respect to the possibility of tax increases that have been suggested in the upcoming budget. I am wondering how you as a commissioner, especially as vice-chair, might react to some significant changes in taxation being brought in in the budget, new taxes perhaps brought in during the mandate of your commission, which in some ways could be perceived as perhaps undermining your efforts. I am wondering how you would view that sort of initiative.

Mr Couzin: I have talked to the Treasurer's people about the larger problem, not just tax increases but changes. It is obviously unrealistic to expect the government to sit on its hands while this commission goes off and does what it does. I do not think they should sit on their hands. That is not what they are supposed to do. They have assured us they will take into account whatever the commission may come up with, not just in the final report but as time goes on, and that even if they have taken some measure in the interim because they felt they had to, or felt they wanted to, they would be prepared to review those measures in light of whatever the commission may say.

I will not say I am sceptical—that is going a little too far—but I think I would have some sympathy for the Treasurer being a little reluctant to repeal something he enacted last year just because someone else said something new this year. But within reason I think I take it at face value. The world has to move on and new measures may have to be taken. I think the Treasurer will be a little bit—I was almost going to say "conservative;" I guess I cannot say that—restrained in new tax measures while he is trying to get advice but, as I say, he cannot sit still.

The Chair: Thank you very much for your presentation.

Mr Couzin: Thank you.

The committee recessed at 1205.

AFTERNOON SITTING

The committee resumed at 1307.

FAIR TAX COMMISSION

The Chair: Come to order, please. As your agenda indicates, we have the afternoon split up into blocks to deal with the three parties' recommendations or selections, if you will, for interviewing. We have up to one hour to discuss the various intended appointees. We do not have to utilize that full hour if we can come to a conclusion before that.

As indicated, the first hour is dedicated to the determination of whether or not the committee concurs in the intended appointees as selected by the official opposition, that is, Monica Townson, William Blundell and Susan Giampietri. We will open up the discussion with a representative of the official opposition. Mr Grandmâitre.

Mr Grandmaître: I will be voting for Ms Townson. I will not support Susan Giampietri. Who is the third one?

The Chair: Blundell from General Electric.

Mr Grandmâitre: Yes. I will be supporting Mr Blundell, and I think Ms Townson has shown that she does have an open mind about this commission.

I must point out that they are all very qualified people except for Susan Giampietri, who is a resident of Hull trying to tell me that she lives in the Ottawa-Hull district. That is not an address. I have checked with the post office. It does not exist. If I were to write her a letter, pointing out that she lives in the Ottawa-Hull capital district, it would not reach her. There is no such address as the Ottawa-Hull district. It is a district, but it has federal connotation.

Of those three, Ms Giampietri is the only candidate that I would not support. I do not know about my colleague Mr Sola, though.

Mr Sola: At the outset I would like to say that I am extremely impressed with the qualifications of every individual who has come up here. Their résumés do support their having been approached to sit on the commission, so I have no problems with their backgrounds.

Ms Townson and Mr Blundell certainly qualify and will get my support. My only problem is again with Susan Giampietri, and for several reasons, first of all, the non-residency. It may be a small thing; it is still one country. Quebec still has not separated, so it is one country. But it is important to note that she is also a non-taxpayer. I found that out subsequent to having spoken here yesterday. She does not pay municipal or property taxes in Ontario. She does not even pay provincial tax. Because she is a resident of Quebec, the provincial portion of the federal income tax goes to Quebec. In other words, she would be making decisions which would not affect her in the least unless she was talking about sales tax.

The other thing that bothered me about her was her response that she represented a constituency. She did say she came in with an open mind, but at the same time, I think she put a question to how open-minded she would be. I think you would have to refer back to the labour movement, to the unions, in order to make sure that she was representing their views.

No other witnesses who came before us had any problems stating that despite their political leanings, they would approach this with an open mind. The people's agenda, the promises of the government, would not tie them into questioning the agenda that was put before them. I have to question whether Ms Giampietri would be able to do so if she has to have an ongoing consultation with the labour movement and if she is in effect more a representative of the labour movement than of herself.

Those are my reasons for not being able to support Ms Giampietri. Otherwise, her credentials are just as valid as any of the others.

The Chair: Mr Villeneuve, I know you are in a difficult position as a substitute. You may not wish to make any comments.

Mr Villeneuve: I really should not comment. I was only a party to this this morning, and I will be consulting with my colleagues prior to voting. You will appreciate my position.

The Chair: I want to advise you that we are going to be having the votes shortly, as we deal with each group, so we will be having a vote in the next 10 or 15 minutes as we go through the flow. You may wish to remove yourself from the voting exercise, if you will. That is one option, or if you wish to contact one of your colleagues now, I suggest this is the appropriate time to do it.

Mr Villeneuve: Actually, I will do, Mr Chairman. Thank you.

The Chair: From the government side, Mr Wiseman.

Mr Wiseman: I would like to make three points about the opposition's opposition to Ms Giampietri.

The first point is that, at a time when the tensions between the provinces and in particular the frustration levels of Quebec are at a high level, I think that it is unfortunate that the members opposite would seek to exclude somebody from Quebec solely because she is from Quebec. I think we need to be very careful with this kind of approach to a problem.

Second, I think we need to examine precedents in this case to find out just exactly what has happened in the past with regard to agencies and committees that have been seeking to have high-quality people work for them. The third part is really the notion that—how should I put it? Let me deal with the second one first, then I will get back to the third.

Let's deal with precedents. The first thing we have to understand is that this is the first time any committee anywhere has had any opportunity to question any recommended person for appointment by the Premier's office. It has never happened before, so this is ground-breaking for this committee. To pursue that, I think that we need to make sure that this committee works in a positive way.

I would like to point out that in the past no one has had the opportunity to question where anybody was from, what they did or where they worked. That was an appointment made by the Premier and it was imposed on them. To prove that point, I would like to ask Mr Sola and Mr

Grandmaître if they know a Brian McClay or a David MacGregor?

Mr Grandmaître: Are they commissioners?

Mr Wiseman: Do you know Cecil Flenniken?

Mr Grandmaître: Is he a commissioner?

Mr Wiseman: These people are all members of agencies who have been appointed by order in council to serve on committees prior to the establishment of the NDP government.

Brian McClay was appointed on 9 July at $150 per diem to the recycling advisory committee, and he lives in Beaconsfield, Quebec. David MacGregor was appointed by the previous Premier to Industry, Trade and Technology's Ortech Corp board of governors, expenses only, and he lives in Hialeah, Florida. Then we have on the Ontario Round Table on Environment and Economy, appointed by the previous Premier, 6 October 1988, expenses only, Cecil Flenniken from Montreal.

If these people are worthy enough to be on these committees, then I would say that Ms Giampietri is worthy to be on the committee to look at fair taxation.

Mr Hayes: I would just like to comment in regard to Ms Giampietri. It seems that people are of the opinion that she is going to be continually going back to labour and strictly getting its input and reporting.

Mr Sorbara: Those are her words, not mine.

Mr Hayes: I think one of the things that people do have to understand in the labour movement—several times I have had other people outside of my union, when I was in the union, ask the president of my local, for example, to ask Pat Hayes if he was interested in sitting on a certain committee. The president would say, "I'm sure he is," and then he would come and say, "Are you willing to do it? I already told them you probably would," type of thing. So I think that is not out of the ordinary.

But I think it is very important that we do have a person like her on that committee who can relate the concerns of labour and especially women in the labour movement. I think that is very, very important, and we should certainly look at that. It is another sector in our society which I believe should have a spokesperson on this committee to relate issues and concerns, especially in taxes, that affect that particular class. I certainly am going to support her, along with the other two people.

Mr Johnson: Certainly this commission is a commission that has a membership of 10 people, and I think we are looking for impartiality as it approaches the issue of fair taxation. I think we would all agree that we want a diverse cross-section of our society as members on this particular committee.

Depending on a person's perspective—and I guess politics is a broad spectrum of perspectives—yes, it is true that Susan Giampietri is a member of a trade labour organization, but she also agreed that she would have an open mind when she goes into this. Now, I think if people were bankers or tax experts, they might have opinions on which one might want to prejudge them. If we are prejudging her because she happens to be from the labour movement, I think we would have to prejudge too those people who have preconceived notions about what is good or bad about taxation, and certainly tax experts, I think, would have those.

With regard to where she lives, I know many public servants who live in Ottawa and reside in Hull. Apparently it is a little less expensive to live in Hull, and it is human nature to try to reduce your expenditures, I think we would all agree. We try to do things as best we can; we try to manage our money as best we can. So it is not unusual for people to live in Hull and work in Ottawa. She is a long-time resident of Ontario, she was educated in Ontario, and to exclude her from this commission because she lives in Hull right now is, in my opinion, petty. I think she has a lot to offer the commission, especially in so far as we are keen to see a broad or diverse cross-section of our society sitting on this commission.

What is the commission going to do? It is not going to sit down itself and decide what is fair taxation. At least, I am of the impression that it is going to go across communities across the province and get some input and hear what people have to say. If that is the case, then one person on a commission of 10 who has maybe her own opinion, but has an open mind and has the value of wealth that she is going to bring to this commission—I think that the reasons for her exclusion that I have heard today do not warrant that.

Mr Sutherland: I just want to further comment on that issue. I think if you are going to exclude her solely because she is residing in Hull, Quebec, that is a pretty weak rationale for excluding her. I thought the object of bringing people before this committee was to look at their qualifications, their ability, at whether they are going to be able to provide some input. If you want to make comments about whether you think she is qualified that way, we can discuss them, and I think that is a much better rationale to be working on, but the fact that she is living in Hull is not a problem.

It would be a problem if she had never worked in this province and had no understanding of some of the issues affecting this province, but judging by what she put forward and on her CV, she has vast experience with this province and has lived here most of her life and is still very active in this province. So I think the question has to get away from the fact that she is a labour representative. That is not the relevant point here. You want a broad cross-section.

If she is a labour representative, fine. Is she qualified to be a labour representative? If you think you have arguments against that, maybe the discussion should focus on that. But let's not get into some of the more minor and, as far as I am concerned, irrelevant points as to her ability to do a good job on this commission. If it is a concern at all, it is of very little concern compared to the other issues that I think this commission has to face and what we should be looking for in the people on that commission.

1320

Mr Sola: I would like to respond to some of the questions raised. I think the government members are taking my statements out of context. They are saying "solely." I did not say "solely" because she represents labour. That does not bother me. What bothers me is that she said she

had a constituency she had to go back to to get its opinion on what she was hearing. We did not hear that from any of the others. If we had a banker here who said he had to go back to the banking association to get the rubber stamp whether he can sign a document or not—when I specifically asked her if she could sign the report without referring back to the labour movement she said no, or she qualified it. So I am judging her on her words, not on her background. We need somebody from the labour movement, because they have vast expertise in various problems that should be looked at by this commission.

My problem is that as to discrimination against her because she is from Quebec, that again is misrepresenting the facts. It is because she is a non-resident of Ontario, not that she lives in Quebec. If she lived in the States, if she lived in Manitoba, I would have the same problem, especially when I find out that any decision she reaches will not affect her personally because she will be more affected by a similar commission doing the same sort of study in Quebec. This comes to a contradiction. If she were representing herself personally, her personal opinion, then it would influence her decision, but she is saying she is going to be a spokesperson or a representative of the labour movement. In other words, we will not have a commission of 10 people; we are going to have a commission of 70,000 people, because she said she represents 70,000 people who live and work in Ontario. I do not think we wanted to extend this commission to such a broad base.

Mr Grandmaître: I agree with my colleague 100%. Mr Wiseman mentioned the tension between Quebec and Ontario. I want to remind you that I have been working in this province for the last 30 years to ease the pressure not only between Ontario and Quebec but all provinces. You are not going to tell me that by not appointing Ms Giampietri we will increase these tensions. I think that is a whole lot of baloney. That is not my intention, and I hope you did not mean it that way, because that is a low blow as far as I am concerned.

As I said from the outset, I am not questioning the ability of Ms Giampietri. I did say that all 10 intended candidates who appeared before us were qualified people, some of them overqualified, I think, for what this commission is really looking for.

Mr Sola: You can never be overqualified.

Mr Grandmaître: In this case, yes. I do not want to repeat what Mr Sola has just said, but there is the fact that she would sign the recommendations but not before she consulted labour. I have never been a puppet to anybody. I have always been invited to participate on a committee, a commission, participating in my community, because I had something I believed in. I was never invited to become a commissioner or a member of a committee to be somebody else's puppet. I was always invited because I was myself. A person who agrees before this committee that she was sent in—as John pointed out, Mr Sola said, "by my constituents"—I do not think this person would have an open mind.

Of the 10 recommended people, labour will be represented fairly, I hope so, but I do not think we need a puppet from the labour force to try and peddle its influence on the commission. That is the reason I will not be supporting Ms Giampietri, not because she is living in Quebec.

Mr Sola: One other reason I forgot to mention in my response to the government points: It was pointed out that this was the first time a parliamentary committee could question witnesses named to a commission. That is particularly the reason it is necessary for us to set a proper precedent. The people you mention being named to those other boards would not have had the financial impact on the province that this commission may have, on the one hand. On the other hand, we had no opportunity to put our input into their selection. It was an appointment by a Premier.

You are trying to set a precedent, and if you are trying to set a precedent you should be able to set a proper precedent. We are pointing out what we see as weaknesses in the appointees or in the method of appointment, which, if you agree, can be straightened out, but whatever we do here will be taken as a signal for future appointments. If we see something wrong in either the method of appointment or in the approach of an individual appointee to the appointment, I think it is our duty to bring that up before this committee so we can straighten that out if possible. I have no problem if the Premier of the time saw fit to appoint out-of-province people to commissions. Had I known about it, had I had the input I have here, I may have had the same questions posed to that person.

Mr Hayes: There really has been a precedent set here, because what always happened in the past was that people were appointed to positions and the Legislature found out well after the fact. I think it is very good that all parties are able to review and at least know the faces of these people, they have the opportunity to question them. Of course, you have Hansard and you had the monitors showing it is all open, up front, even if you may not agree with certain appointees.

The other thing I wanted to mention when we talk about Ms Giampietri is that, sure, she is going to consult with the labour movement. I am sure the economists, the small-business people and others will be consulting with their colleagues also. I think it would be foolish not to consult with your own colleagues and try to do the job and do it in a right manner. I think that is very important, and I think it would probably bring a good light on to the work of the Fair Tax Commission. I think one of the things that took place here is that she was very open and did not hesitate or did not apologize for belonging to the labour movement. I think that is very important, and I would suggest that you look at it in that sense.

1330

Mr Wiseman: I would like to make a quick comment about a precedent that is set. Suppose we decide, then, and all of you have agreed that Ms Giampietri is well qualified to do this job in the sense that she has the qualifications. Then let's suppose we say, "She's from Quebec and from the labour movement so we're going to turn her down." Here we have two precedents we have set. One of the precedents is that we will not spread the net as far as we possibly can to obtain the best talent we possibly can to

make comments on questions of importance in the province, and I would think that would be a dangerous precedent.

When I listed the places of residence for these other people, I did not do it saying that they should not have been appointed. I did it to point out that the net has been spread far and wide in order to obtain the best talent. I did not agree with the process, and that is why I said that this process is different. I think there is that precedent that we need to take a look at as well. To say we are going to exclude somebody who is talented, capable and able and willing—there is some question about the willingness of a large number of people who were actually asked to come and have refused. We are not really paying the big bucks: $200 a day is really quite marginal compared to what some of these experts get on an hourly basis.

To have people volunteer, like Mr Blundell, who said he would be willing to serve on this commission even if it paid nothing because he felt he should give something back—I think we should avail ourselves of those kinds of people who are doing it for what I would consider to be more altruistic reasons than selfish. Two hundred dollars a day is not a lot of money, and in some cases it is as little as $150. It is not a lot of money for people of the calibre we are talking about here to come forward and give their time and their services.

I say cast the net as wide as you can to get the best talent you can to give you the best advice they can. That is one of the reasons I would support Ms Giampietri, because she is one of those people, with Mr Blundell, who feels an obligation to give back.

Mr Sola: Again I would like to point out that it is not the fact that she is from Quebec or from the labour movement. She cast doubts upon her open-mindedness with her own words before this committee, at least to my way of thinking, and that is what I am questioning. I am grateful to all of them. I agree that they are approaching this commission out of altruistic purposes, because, from their qualifications, they can certainly earn more than $200 a day or $150 a day. And they would not need the aggravation of coming before a committee like this and having their party affiliations and all those other probing questions thrown at them. But the way she answered those questions, that she could not or would not sign a document without agreement from those who are above her in the labour movement, is an approach that none of the others took. The others, even though they had party affiliation, even though they worked for candidates or supported candidates, said they were willing to rise above the party affiliation and approach it with an open mind. She said she had an open mind, but at the same time she had to refer constantly on a consistent basis back to the labour movement.

That is what I am questioning, whether she can do that and retain an open mind. I am unconvinced that she will not get her marching orders, and that is my big problem. The fact that she lives in Quebec, I would like to make a footnote of that. The fact that she is in the labour movement, that may be a footnote. Otherwise, if I were convinced she had an open mind—but I am not convinced, and that is why I am opposing her selection.

As you say, you are the government members, you have the majority. You have to weigh whether our concerns are important enough for you to reconsider. If they are not, you will be setting the precedent. All we can do later on is either justify—one of us will be justified. If the report comes out and shows the objectivity of the group, well, then if she is on it and you outvote us, you will be justified. If the report comes out in a slanted fashion, well, then we will have reason to say, "I told you so."

Mr Johnson: A brief comment. I think it would not hurt to check the Hansard. Some of what you said, to the best of my recollection, is partly correct and some of what you said is not in my recollection. I know that she was asked, could she sign it? If someone is asked a question and if you want the answer to be no, for example, and you say yes seven times and then they finally say no, you say, "There, you said no." What I heard in the final analysis when you were questioning her was that she could sign it without any problem.

Also I would like to add that there were many questions of concern with regard to her representation of the labour movement. Whether she consults with them or not, I do not see anything wrong with that, personally. If she consults with the labour movement with regard to what is happening, I think that is good, it gives that perspective. I did not hear you or anyone else ask the business people, "Would you go back and consult with business people?" because maybe then if they said, "Yes, we will consult," you might say, "Then obviously they're not representative," or "You're not thinking for yourself and you don't have an open mind and there are influences." And we did not ask the tax experts if they were going to go and consult with other tax experts; so I am a little confused as to what the purpose is for bringing that up as a reason.

Mr Wiseman: I would like to make a quick comment about that, because Mr Blundell was asked if he would write a minority report if he disagreed with the others, and if my recollection is correct, we did not get an answer about that. I think that when you get 10 people together, there is an opportunity to have anywhere from 10 to X ideas about any given issue, and I felt, with the addenda that Ms Giampietri was making, that she did bring an open mind and yes, she would consult as widely as possible.

When I look at the chemistry of all 10 of them together, they do come from divergent backgrounds. I do not think anybody questioned just exactly how deep the discussion is going to go between Mr Brooks and Mr Couzin, and I believe there was an indication that there is a difference there. Mr Poddar also indicated that he has talked to these other tax experts. I think there is going to be a real dynamic interchange of ideas on that committee and I think you have to look at it holistically to find out where everybody is coming from and who is going to be saying what and from what directions, then wait and see what the consensus is.

I can remember reading about the Carter commission when it was appointed in the 1960s. Everybody in the accountancy business and the firms having had Mr Carter, a very eminent chartered accountant, appointed to look at

the tax system, thought that they were going to get a system that was going to be just what they wanted to hear, and after five years or so he came back with recommendations that just blew them out of the water; totally unpredictable. I think that whenever you start a process like this, history tells us that you cannot prejudge where it is going to go and what those people are going to say. We need the best talent and the best thoughts and the best skills to make sure that some dynamic happens, and I think she will add to the dynamics and I think that is why she was chosen.

1340

The Chair: Are there any further discussions while this group of intended—I am sorry that your government's time is exhausted. We have some time left for the official opposition and for the third party but no time for the government. In fact, it went over a minute. Any additional comment?

I want to point out, since there is obviously a difference of opinion on one of the intended appointees, I am going to call for motions on each individual appointee. If you wish to record it, we will record a request for recorded votes.

Interjection: Recorded vote.

The Chair: Okay. We will deal with Ms Townson first. We have a motion to concur with the appointment of Ms Townson. We are simply going to do this by voice vote on Ms Townson.

Motion agreed to.

The Chair: We have a motion to concur with the appointment of Mr Blundell.

Motion agreed to.

The Chair: And the final one, which we should perhaps have a formal motion on: Does the committee concur with the appointment of Ms Giampietri?

Mr Owens moved that the committee concur with the appointment of Ms Giampietri.

Mr Owens: Can we get a recorded vote on that?

The Chair: Yes.

The committee divided on Mr Owens's motion which was agreed to on the following vote:

Ayes–6

Hayes, Johnson, MacKinnon, Owens, Sutherland, Wiseman.

Nays–3

Grandmaître, Sola, Villeneuve.

The Chair: We will move on to the next group of intended appointees—these were selected by the third party—Ms Nelson, Ms Kitchen and Professor Brooks. Mr Villeneuve, do you wish to say anything with respect to these intended appointees?

Mr Villeneuve: Again, I am speaking with some degree of disadvantage because I was not here when they made their presentations and was not available. However, I know by reputation the three people here and in my opinion they are very capable people, certainly in other fields than taxation. Certainly Professor Brooks I believe will bring the balance that other people were speaking of on the other side. He will certainly be an interesting member of this committee, so I would move the acceptance of the three names as suggested by the third party.

The Chair: Thank you. Does the government caucus have any comments with respect to these three intended appointees? The official opposition?

Mr Grandmaître: I will be supporting the three nominees.

The Chair: All right. Well, I think we will do them as a group then.

Mr Hayes: If we could have a recorded vote on this.

The Chair: On all three?

Mr Hayes: Yes.

The Chair: Individually?

Mr Hayes: It does not have to be individually.

The Chair: Well, let's do it as a block then.

Mr Hayes moved that the committee concur with the appointments of Ms Nelson, Ms Kitchen and Professor Brooks.

Motion agreed to.

The Chair: Okay, we will move on to the third block, government selected group, Mr Lafrenière, Mr Poddar, Ms Berman and Mr Couzin. Does a government member wish to comment on those intended appointees? The official opposition?

Mr Grandmaître: Mr Speaker—or Mr Chairman. I guess I am anxious to go back in the House or something, after a short holiday.

The Chair: Either that, or you will see me get a car and driver.

Mr Grandmaître: I think the next four candidates all demonstrated great ability, great intelligence, except that Ms Nelson—

The Chair: We have already dealt with that. We are talking about the government intended appointees Lafrenière, Poddar, Berman and Couzin.

Mr Grandmaître: Oh, no comments.

The Chair: Any comments by the third party?

Mr Villeneuve: I certainly have no problem with the people we heard today, Messrs Poddar, Berman and Couzin. I think they are very knowledgeable people about the taxation system and I would have no objection to their being part of this committee and would support their nomination.

The Chair: Fine. It looks like we have unanimous support. We will have a formal motion.

Concurring with the appointments of Mr Lafrenière, Mr Poddar, Ms Berman and Mr Couzin, all in favour? Opposed? Carried unanimously.

Motion agreed to.

The Chair: That concludes our business for the day, certainly our agenda business. Is there anything else that any member wishes to raise at this point before we adjourn until some time in March? I guess that is it then. To any of you going on vacation, have a good time and we will see you when the House reconvenes.

The committee adjourned at 1351.

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Standing committee on government agencies

Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 20 March 1991

The committee met at 1009 in room 228.

APPOINTMENTS REVIEW

Consideration of an intended appointment.

The Chair: Can we come to order, please? Members of the committee, we will start off, as you can see by your agenda, with an up to two-hour review of an intended appointment selected by the third party.

Mr Waters: I would like to make a preliminary suggestion for the group. Because there are two hours, which seems an extremely long time for this, I was wondering if there was any way that we could do that and then do the review immediately afterwards. If we have run out of questions in an hour, can we not review this morning?

The Chair: I think we have to get into a rather technical discussion about the temporary standing order. Let's see how we do; if we do end early, then we can. We will see if that is appropriate.

Mr Waters: We are finding that two hours is a long time.

The Chair: The standing order allows for up to three hours, so essentially if a party wishes to interview an individual for up to three hours, it has that right under the temporary standing order.

JUANITA WESTMORELAND-TRAORÉ

The Chair: Welcome to the committee. Under our rules, we will commence the discussion. I guess I should give you an opportunity, if you wish, initially to make a few brief comments, or would you rather move right into questions?

Dr Westmoreland-Traoré: I just wanted to say good morning to the members, good morning to you, Mr Chairperson, and also to say that I am pleased to be here, that I am committed to employment equity and that I am willing to answer your questions.

The Chair: Thanks very much. We will begin the questioning with Mr Stockwell.

Mr Stockwell: Welcome. I hope it will be the quickest two hours you have been through. First question. You have been appointed by the Premier. Have you in fact taken the job? Are you physically doing the job now?

Dr Westmoreland-Traoré: What I understand is that I am a nominee, and before the appointment can be actually made, I am called before this committee and there is a recommendation that will issue, I hope favourably, from this commission and then there may be a decision by the government.

Mr Stockwell: So you are not physically doing the work now.You do not have an office.

Dr Westmoreland-Traoré: I have an office to do professional work. I am not working for the ministry at this point.

Mr Stockwell: I see. There was some concern with respect to where you reside. Clearly it is outside the province of Ontario. Was there any conversation about locating in Toronto and who would in fact pay the travelling costs and your living in Toronto? I assume that would be all your responsibility, not the government's.

Dr Westmoreland-Traoré: There was discussion. It was one of the questions that I was asked during the interview: How did I feel about being from outside of Ontario and what approach would I take in order to accomplish my functions. I answered those questions and I was also informed that within the public service of Ontario there is what is called a relocation package. I was given information on what the conditions were, both with regard to housing possibilities, either in order to search for housing or to purchase housing and what not. There are facilities; there is a plan providing for relocation.

Mr Stockwell: So in fact you are going to move to the province of Ontario.

Dr Westmoreland-Traoré: That is correct.

Mr Stockwell: With respect to the appointment, I assume you were approached by the government. Was there an outreach by the government to see if you would be interested in applying for this job?

Dr Westmoreland-Traoré: That is true. I was called and I was informed that the position was available. The person who contacted me was Ms June Veecock and I did subsequently receive another call. I called back and found out a little bit more about the position and I came to two interviews.

Mr Stockwell: With ministry staff?

Dr Westmoreland-Traoré: No, I think the first interview I was seen by Ms Carol Phillips, Ms Veecock and Ms Winnie Ng and the second interview was with the minister.

Mr Stockwell: There has been a conversation in the past regarding some commissions, etc, with respect to party affiliation and so on. Clearly there is some talk of past appointments being party motivated or politically motivated. Are you a member of a party? Do you belong to a party? Are you working for any specific federal or provincial political association?

Dr Westmoreland-Traoré: I am not a member of any political party nor working for any political party.

Mr Stockwell: With respect to a brief outline on the background, I read the comments and queries and the previous employment. With respect to that, maybe you could give me an outline of your employment history that you feel gives you specifically a new outlook or qualifications

with respect to the job that is being applied for or I suppose being hired for today. You could maybe give me a brief outline of the qualifications that you feel put you over and above an applicant from within the province of Ontario.

Dr Westmoreland-Traoré: That is a double question.

Mr Stockwell: Some would suggest it is loaded.

Dr Westmoreland-Traoré: Well, I was preparing to answer it in stages. But the first question is what in my employment background might qualify me for this position. I have worked as a lawyer, I have been a practising attorney and I have been active in defending cases of human rights both with regard to discrimination based on sex and discrimination based on race and colour. I have been involved in several cases. I have also been involved in cases in my professional career defending activists who were arrested, mainly in demonstrations and occupations.

I have been a commissioner for the Canadian Human Rights Commission. For about three years I was a member of the commission, and in that capacity we received complaints, we received the reports of the investigating officers, we studied them and we were obliged to come to a finding on whether the complaint should go before the tribunals. We were also involved in establishing guidelines for adaptation planning in preparing guidelines for pay equity at the federal level.

Besides that, during the work for the federal commission, I was part of consultation teams that went to several cities, including the city of Toronto, to meet with employers' associations, manufacturers' associations, as well as members from different groups and communities that would be benefiting from these programs. In that way I think I gained some information and some experience with regard to activities and actions in different cities of Canada as well as in Toronto. Of course, my work with the commission led me to participate in different community outreach activities, and that has been very useful to me.

More recently, as a full-time employee, if you wish, I was chair of a Quebec consultative committee or council on cultural communities and immigration. In that function we were responsible for advising the minister on all policy issues dealing with the full participation and integration of people of ethnic and minority background within Quebec and also for design of immigration policies and settlement. Those are some of the areas.

I have also taught five sessions on equality rights for the Canadian Human Rights Foundation. At present I am giving a course on human rights at the law department of the Université du Québec in Montreal. I might also mention just in passing, even though it is not an employment situation, that I have been a member of the court challenges program for CCSD, and that has acquainted me with the—

Mr Stockwell: What is CCSD?

Dr Westmoreland-Traoré: Canadian Council on Social Development. This program is now administered by the University of Ottawa Human Rights Centre, and this has given me a certain familiarity with the cases under section 15 of the Canadian Charter of Rights.

Mr Stockwell: More specifically, there is some concern with respect to the government, and I do not think the government has taken a position specifically on mandatory hiring quotas. Can you give me your thoughts on that subject and what you think you will be steering your recommendations towards?

Dr Westmoreland-Traoré: I am at the very beginning of a process, so I cannot—

Mr Stockwell: I am obviously not looking for an informed professional response with respect to this specific job. I think what we are looking for today is more along the lines of your own personal viewpoint and where you see needed direction, particularly on mandatory hiring quotas. It is obviously a key issue that you will be dealing with, and I would like to hear what you personally have to say about mandatory hiring quotas.

1020

Dr Westmoreland-Traoré: I feel we are at the beginning of a very important program that has the potential of affecting not only the employment situation but also values in this society, attitudes and the way we treat people in this society. I believe employment equity is a planning process, and in order for a planning process to be effective, people must be aware and must understand what the objectives are. The planning process has to have objectives that are explicit, that allow people to know what is intended, and these objectives can also in the future allow people to see whether the objectives are being accomplished. They also allow the persons who are responsible to take the appropriate actions in order to achieve those objectives.

When you mention "quotas," I believe the word "quotas" has been used in some circles to refer to targets that are fixed and that sometimes have been seen as maximum absolute numbers of employees who can be recruited or who are to be promoted or in other ways affected in the employment situation.

Personally, I feel that the qualification "quotas" is misleading; I myself use the expression "numerical targets" or "objectives." I believe it is important in employment equity that there be some quantification of the objectives: how many people from the different designated groups are to be recruited or trained or promoted in different situations and in which categories. I think it helps the administrators. But it is important to realize that these targets or objectives are set forth in order to facilitate bringing about a representative and fair workplace. They are not set out as quotas to be limitations on people who are applying, and they are not put forward in an absolute way. They are put forward as guides, and they can in the process of evaluation be readjusted according to the context in a particular industry, in a particular company, in a particular institution. In other words, they are a planning tool.

I may have been a little bit more comprehensive in my reply to your question, but I think it is important to see what is the function of these targets and also to understand that they are a part of the program; they are not the entire program.

Mr Stockwell: I think I understand your answer. It seems you have changed one terminology for another. You

have gone from mandatory hiring quotas to numerical targets that can be adjusted and changed. I always have assumed that mandatory hiring quotas, etc, could also be adjusted and changed, Mr Chairman, Mr Chair. I never—

Mrs Haslam: Chairperson, Mr Stockwell.

Mr Stockwell: It is kind of tough when you go "Mr Chairperson." You are defining it at that point.

Mrs Haslam: Mr Chair.

Mr Stockwell: Okay, Mr Chair. I have always assumed that they were adjustable and changeable. Tell me the difference with numerical targets. It sounds like you have changed the words but the definition seems pretty much the same.

Dr Westmoreland-Traoré: I think if you look into some of the materials—and I do not want to be overspecific and I do not want to be limited in what I am saying here—but you will see that the word "quotas" has been used in certain situations and it has been interpreted as meaning fixed amounts that are to be attained within a certain period, and if these fixed amounts are not attained, there will be sanctions. At the same time, the quota is used to mean that they are absolute amounts and it is not possible to exceed these amounts. The word "quotas" has been used in historical contexts that have been very derogatory, and that is why I feel the word "quotas" is misleading, because the content and the common usage have become clouded by these racist uses.

Quotas were used, for instance, in educational institutions to cap off the number of people from certain minorities who could be accepted at those institutions, and unfortunately this is not an issue which is totally extinct. It is an issue that resurfaces. So I do not think it is positive to use the word "quotas." I think if we use the word "targets," even if you take a literal interpretation of the word "targets," you will understand what it means. I am not in any way diluting the objective of the program when I talk about targets because there is obviously a monitoring process. There will also be participation from both designated group members and from unions who are concerned about seeing that in the final analysis there is a fair representation of the workforce in the different employment settings and institutions.

Mr Stockwell: I will go on, but I am still having great difficulty breaking off the definition between numerical targets and the suggestion that mandatory hiring quotas are somehow different. I assume sanctions or some kind of penalty will be applied in both instances should they not be achieved.

I guess the next question I go to is small business. There is a degree of certainty among the working establishment out there, I suppose, that a definitive approach can be used in larger businesses, 500 or more employees. There is some concern from small business, 50 or less, about how they would fit into the program, how they would fit into the plan. It is far more difficult and far more costly for small business people to meet the objectives of some government program, simply because they do not have the kind of capital and cash flow that large companies do and they cannot necessarily absorb certain program costs that large businesses can.

Have you any thoughts you can give me with respect to small businesses and whether they can have a degree of comfort that this will in fact be understood and taken into consideration?

Dr Westmoreland-Traoré: I think it is a legitimate concern that has already been expressed. I have looked at some of the materials from former consultations and I know the particular situation of small businesses will be studied. I believe that, as employment equity commissioner, one of my first tasks, along with a team of other people, will be to study, to consult and to make certain accommodations for small business. At the same time, I believe that small businesses, as well as larger businesses, will benefit from employment equity.

I think that at present, in fact, a large proportion of their employees are part of the designated groups. About 60% of the workforce of Ontario falls into these designated groups. When we remove some of the barriers through the planning, we will be able to free up much more talent, much more dynamism, much more commitment in the workplace, so small businesses as well as the large industries and manufacturers will benefit from employment equity.

Mr Stockwell: I am sure I have time left, but I would pass to—

The Chair: What I was going to suggest was we will go in 20-minute rounds.

Mr Stockwell: Fine. I think I was almost dead on.

The Chair: We will come back to you later if you have additional questions. Mr Owens.

Mr Owens: Thank you, Ms Westmoreland-Traoré, for appearing before us today. I am very pleased to see you here. Shortly after the announcement of your intended appointment by the Premier, our friends in opposition raised a kerfuffle about the fact that you are not from Ontario. As a matter of fact, I want to read you a quote from a Toronto Star newspaper article written by Paula Todd, published on 16 February. The quote states: "'I don't see how you can understand Ontario if you don't live in Ontario. I think it's so obvious it boggles the mind.'" The reporter is quoting the Liberal MPP for Lawrence, Joe Cordiano.

1030

Now, I do not understand this quote for a couple of reasons:

First, when we are struggling for a national identity, why would an elected official feel that a person cannot transfer skills from one province to another?

Second, I want to ask you whether you feel that the problems of adults or children with physical disabilities in other provinces are different in Quebec than they are here in Ontario. Do you think that people who are members of visible minorities have different problems in Ontario than they do in Quebec? Do you think the barriers are different in Quebec than they would be here in Ontario?

Dr Westmoreland-Traoré: I am quite aware that coming from Montreal to Toronto will mean there is information that I will have to acquire, that there are contacts and there are networks that I will have to create. I am interested in doing this and I feel I have the skills to do

this. On the other hand, I think there is one thing fundamental to persons who have been involved in equality-seeking work, and that is that there are networks of people and these networks stretch across the country. For that reason, I have been involved in major human rights initiatives in this country. During the constitutional amendments in 1982, many women's groups were very active and we lobbied for section 15; then we became involved in creating form and doctrine to flesh out what we thought equality represents in the society.

From that experience, I know there is a basic solidarity: that the problems and barriers facing women, whether they be in Montreal institutions or employments or family settings or personal relationships, are basically the same in Ontario or in western Canada and the Maritimes. With regard to people with disabilities, I had the same experience working with the Canadian Human Rights Commission, both in the type of cases that we received from Montreal or cases that we received from Toronto or from Nova Scotia. We had questions dealing with accessibility, we had questions dealing with harassment at the workplace, we had lack of accommodation on the part of certain major institutions. These were basically the same issues, and indeed many of the people we liaised with in dealing with these questions were people involved at both the federal and the provincial level.

As for work with racial or other minority discrimination, again we have found that the issues concerning recognition of foreign qualification, the issues dealing with overt or sytemic discrimination, are really basically the same. So while I am not denying that in some situations there is context, there are numbers, there are regional differences that I have to study—and I feel that I will have sufficient resources and also I have a certain amount of experience in dealing with new settings—while I realize that this will be a challenge to me and an important part of my position, I also know that I already have a considerable amount of contact, personal alliances and knowledge and experience from a national setting, and this national setting also translates into the provincial and local reality of Ontario. So I am looking forward to this.

There is an area within employment equity, I feel, that calls for a more specific approach, and that is the area dealing with native peoples and native issues. I hope to be able to discuss that with the minister and then to participate in the consultation. I do not believe the consultation will be a long process but I nevertheless think it is important at this point. I am just mentioning that, with regard to native peoples, I think the issues and the barriers and the exclusion are even greater, and that these are a special concern and should receive very special attention for that reason.

Mr Owens: I would certainly agree with your answer. I clearly take issue with the quote of the opposition member.

I have a letter from Wilson Head, a well-known human rights activist here in Ontario. He sent a letter to the Globe and Mail, and I can tell you that I support this letter 110%. He says in a quote:

"I cannot think of a more highly qualified individual than Westmoreland-Traoré. She is a black woman, thoroughly bilingual and a part-time professor of law, the recent executive director of a major multicultural and race relations organization in Montreal and one of the outstanding human rights lawyers in Canada. Her appointment will do much to overcome the cynicism and distrust resulting from the unfulfilled promises of previous governments."

I end my questioning with that quote.

Mrs Haslam: I want to mirror that and say that I was so impressed with your curriculum vitae. It is three pages that is just phenomenal, your work in this area alone. I just wanted to say how impressed I was.

What I would like to know is: What do you think your first task would be if you are appointed? What would you see as your first task?

Dr Westmoreland-Traoré: There are obviously some areas that I feel I would have to address. First of all, the mandate that I will receive indicates that I am to advise the minister and through the minister the government on the structure and implementation of employment equity legislation. I think that is the core of the mandate.

For that reason, I think it will be important to review the materials that have been gathered so far, with much diligence and expertise, and I also believe it would be important then to organize a short process of consultation, because there is a draft legislation. I believe the former official consultation that took place was a consultation by invitation.These are matters that have to be discussed with the minister, but I think there should be a consultation that is open and provides for participation by the major interested groups. Those are the people from the employer communities, the people from unions, the people from the designated groups. It should ensure that this consultative process is the kind that encourages and permits meaningful participation from all those designated groups.

I feel that for employment equity to be successful, there has to be an important communications component, both internal and public. There has to be a level of acceptance and understanding. And then, obviously, in our work we will be able to give our opinion, our informed opinion to the minister, to the government, on the final draft that should be presented and, hopefully, this will be done rather quickly.

So I see as the first part of my mandate this question of a consultation on a draft on the specifics of the mechanics we can use for affirmative action.

We have talked perhaps only in general terms, but I think that for the objectives of employment equity to be reached—besides the issue of the numerical targets—there are the affirmative measures. If we do not have preferential measures within affirmative actions program to help redress the imbalance, then we are going to be perpetuating, under the guise of employment equity, the past inequities. And so there has to be discussion, there has to be realization, there has to be acceptance of these specific preferential measures. They can be discussed, they can be negotiated eventually and they will be put in place, I hope.

1040

Mrs Haslam: Thank you. I know that I personally have been a victim of some discrimination and it is often hard to fight. I am looking for something in employment equity that gives those who have been discriminated against a better chance in the workplace. I am looking

forward to seeing what you can do. Is there anyone else with a question? I will pass.

Mr Owens: I just wanted to make one point. The last note that I read from was in fact a letter to the editor of the Toronto Star, not the Globe and Mail, as I had indicated. Thank you.

Mr Waters: Coming from a rural riding, I was wondering if you see any difference in the problems associated with employment equity between rural and urban areas of the province?

Dr Westmoreland-Traoré: I think employment equity addresses certain issues. First of all, within any particular setting, we have to examine what the employment opportunities are. The philosophy of employment equity legislation is first of all to remove discriminatory practices. It is a systemic approach and I believe that whether the legislation applies directly to a particular setting obviously will depend on the definitions and the categories within the legislation. But because it is a question of setting new values for the society, new equality and equity values in employment, the approach is going to be applicable to all employment settings. If we look then within the rural settings, if we have rural industries, industries dealing with farming, major farming complexes, if we have industries dealing with dairy and cattle-raising, commercial export industries, depending on the number of employees, they are going to be affected by this legislation and, as I said, I think it is going to be beneficial because it is going to unleash energies and talents in the society that formerly had been prohibited.

It is true that the measures we will discuss will be tailored to the particular situations. I think what we want to avoid is ghettoization. You will probably find that in some areas there are more instances of migrant labourers. We want to look into the condition and situation of those migrant labourers and see whether they are being treated fairly, what is their possibility of integration and what are their levels of compensation, turnover, recall and what not. I think there is ample room in the rural setting, depending, as I say again, on the context, for there to be a new philosophy in the planning and management of employees with regard to equity. Equity is part of an overall strategy with regard to human resources management.

Mr Waters: You are probably well aware that you are quite well known, and of all of the appointments that have come before the committee, yours is one—once again, coming from a rural riding—where there have been comments made, and they have been very good comments. Everyone has been very positive, and I was just wondering, have you had any sort of response from the different designated groups?

Dr Westmoreland-Traoré: From the different—

Mr Waters: Well, from the groups that you will be working with.

Dr Westmoreland-Traoré: Okay, yes. Before I answer that, I just want to say there was an idea in my mind as I was answering the former question. That was with regard to native peoples. Again the vast majority of native peoples are in the rural areas, and I think it will be important then to see how employment equity will apply to their situation, both with regard to employments that are available to them and creating new employments.

Yes, I must say that I have been very encouraged by the type of response. I was not expecting it. I even think to a certain extent that the initial comment did in a sense make people more defensive of this whole employment equity strategy. I know that it is part of a process and part of a movement that has been taking place in Ontario, but nevertheless I think that because of these comments people have been very supportive. I have received many, many letters, resolutions, press statements, some from coalitions that have been promoting employment equity, some from specific coalitions, the coalition of disabled people, the Urban Alliance on Race Relations, I must say from women's organizations. So I feel this will help me in the work that I have to do. I have received from the manufacturers' association of Ontario. I have received from francophone organizations, intercultural francophone organizations. There has really been a wide expression of support for the initiative in employment equity and for my nomination.

Mr Wiseman: I have been listening with fascination. I really enjoy what you have said so far. I have a thought of my own. I come from an educational background where the school I started in was all of one culture; now it is of multicultures, and we have been experiencing a great deal of difficulty in bringing the cultures together. I do not know if it is specifically part of your mandate, but I think it is going to be part of what you are going to have to deal with. I am just wondering if you have any preliminary thoughts on cross-cultural differences, understanding of historical traditions and how that might be integrated in whatever recommendations you will make to the ministry on pay equity, because, at least from my perspective, I think they are extremely important issues.

Dr Westmoreland-Traoré: I think so. I agree with you. I think the ultimate objective is to bring about a harmonious and equal opportunity workplace and I think in order to do this we are daily working with a multitude of decision-makers, many different situations and settings. For the legislation to be effective, there has to be a certain understanding of the objectives; there has to be an understanding of what these barriers are and what has created these barriers. I think the most effective way of getting at that is allying or combining with these very clear objectives in educational strategy, communications strategy, within the organization, as well as a general public communications strategy.

If we are talking employment equity, there are certain qualitative measures that are necessary in order to succeed in bringing about this fair employment setting. Among the qualitative measures there are obviously programs that deal with information, that deal with enabling the different employees to understand the process, and these programs sometimes are seen as part of anti-harassment mechanisms. These programs also can be assisted by the Employment Equity Commission because we hope there will be certain tools we can make available to the different employers, to

the different institutional settings, and these materials will be developed, together with union participation, together with target group participation, and adapted to the particular settings.

But the materials can be available. They can take different forms: they can be written; they can be audio-visual; they can be in the creative forms of public participation, strategies and what not. These materials have to be an integral part because there are unfortunately many expressions that are used. There are very subtle and negative attacks on the principles of promoting equality. I think it is important now to take the initiative and to neutralize some of these expressions that have been used, sometimes deliberately, and we can do this when people understand.

1050

I believe in the perfectibility of human beings and of their basic will to make the society a livable place for everyone. I think people also want to avoid injury and I think employment equity is a planning process that can help us to come to that situation. Employment is central in our living, in our opportunities, in our fulfilment and therefore it is the major area of this legislation. But I believe the principles that are put forth will spill forth in the other assets, in the other aspects of our living. When we have more fair relations in the workplace, it is going to contribute to more fair relations in the community and it is going to help solve some of the social issues that we are facing.

Mr Grandmaître: I have gone through your résumé with a fine-tooth comb and I must congratulate you. I think you are the best of the 24 or 25 candidates who were interviewed for the job. Now that it is a fait accompli—I think it is a fait accompli now that the minister has announced it and the Premier has written an order in council—you are ready to start to do your job.

Now that you will become the adviser to the minister and you will be preparing the legislation to be introduced at a later date, maybe I should ask this question to the Chairman: Will this be an ongoing position, or is there a sunset review?

The Chair: I would assume that it is an ongoing position and perhaps the nomination operates on the—

Mr Grandmaître: An ongoing position. Were you told that this position is for ever?

Dr Westmoreland-Traoré: No. I believe that the legislation will be ongoing.

Mr Grandmaître: Because even ministers do leave their offices, you know.

Dr Westmoreland-Traoré: I believe that the legislation commissioner—

Mr Stockwell: Some of them recently.

Mrs Haslam: And some members—

Mr Grandmaître: And the noise you heard outside was the move of Peter Kormos.

Mrs Haslam: Actually, they were just moving some Liberals' desks around.

Mr Grandmaître: Having said this, I think the opposition had—

Dr Westmoreland-Traoré: I—

Mr Grandmaître: Do you understand—

Dr Westmoreland-Traoré: I think I understand, sir.

Mr Grandmaître: —that this is a permanent job?

Dr Westmoreland-Traoré: No, what I understand is—

Mr Grandmaître: Not for ever, but at least permanent.

Dr Westmoreland-Traoré: I think I can tell you what my understanding is and it is a important question. I think that the appointment will be an appointment for a three-year period. During that time, I will be called upon, as I say, essentially, to counsel the minister on bringing in this employment equity legislation and hopefully seeing it adopted and beginning the implementation, the setting up of a commission. That all has to be accomplished and the plans have to be at least in their initial stages during that first mandate. I am not aware of anything beyond that initial period.

Mr Grandmaître: So you are prepared to leave the great city and the great hockey team in Montreal to cheer for our poor Toronto Maple Leafs. Is this your understanding?

Dr Westmoreland-Traoré: No, in fact, there is a special place, there will always be a special place deep within me for Montreal and Quebec. But at the same time, I believe that Toronto has qualities. I believe I am coming to Toronto in a very challenging and a very serious capacity and I am quite privileged, quite grateful for this opportunity. All in all, I think so far I am very pleased with the way the situation is unfolding. I have begun my real estate investigations and I must say that is about the lowest part of my experience so far, but I do hope that it will be resolved shortly.

Mr Grandmaître: I want to wish you good luck because I have to sign a second lease and I will tell you, Mr Chairman, they are asking quite a bit.

De quelle façon est-ce que vous entrevoyez les conséquences que le Québec et le reste du Canada — pas les conséquences, mais les problèmes — qui existent présentement entre le Québec et le reste du Canada ? Quelles sont — pas vos prédictions, parce que même M. Bourassa n'a pas de prédictions et même beaucoup de personnes n'ont pas de prédictions — les valeurs que vous voyez entre le Québec et le reste du Canada ?

Dr Westmoreland-Traoré : Je crois qu'il est évident que nous sommes actuellement engagés dans un processus de changement. Actuellement, au Québec, je crois qu'il y a une réflexion très fondamentale sur l'avenir du Québec et l'avenir du Canada et je crois actuellement apercevoir également dans d'autres provinces canadiennes une nouvelle interrogation, une nouvelle réflexion sur les relations avec le Québec.

Je crois qu'il y a une évolution qui se fait des deux côtés. Je crois que, au Québec, il y aura de plus en plus une affirmation du caractère national, une volonté d'assumer certains pouvoirs. Je crois qu'il y aura une renégociation avec les autres membres de la Confédération et je vois cela comme étant un processus déjà engagé.

Je ne peux pas, comme vous dites, prévoir quel serait le résultat éventuel. Ça va beaucoup dépendre du processus et

également de la compréhension les des autres. En cela, je rejoins les préoccupations que nous avons en ce qui concerne la création d'une société équitable égalitaire, dans la mesure que nous ayons à l'intérieur de nos institutions, à la fois nos institutions de vie quotidienne et nos institutions publiques, une acceptation, une compréhension et une approche égalitaires. Je pense qu'on aboutira à une solution acceptable pour tous les partis à la suite de cette négociation.

Mr Grandmaître : Merci. Just to set the record straight, Mr Chairman, I would like to refer to a quote used by Mr Owens a little while ago. The quote mentioned by Mr Owens and attributed to Mr Cordiano did not refer to the candidate who is before us. It was a quote referring to a fair tax commissioner and not this person. I just wanted to set the record straight. I do have a copy of the quote.

Good luck. Let's hope we will meet again very soon.

Dr Westmoreland-Traoré : Merci beaucoup.

M. Grandmaître : Très bien.

Mr Owens: Mr Chairman, on a point of privilege: I show you the headline, which clearly says, "MPPs Vow Fight Over Equity Post," which has absolutely nothing to do with the Fair Tax Commission. I do not know which newspaper clipping you are reading, but this is clearly about this intended appointment.

Mr Grandmaître: Well, the same quote was attributed to Mr Cordiano referring to the Fair Tax Commission.

Mr Owens: Maybe he has the same thing to say about two different appointments.

Mr McGuinty: Welcome, doctor. I wonder if I might proceed with two lines of questioning. The first one, to keep it discrete, will deal with the process that led to your being here today; and second, I would like to get into some more of your thinking regarding employment equity and some of the fundamental problems it is addressing.

With respect to the first matter then, was this position, to your knowledge, advertised?

1100

Dr Westmoreland-Traoré: I am aware of the announcement that was made initially in the throne speech of the employment equity legislation, and also of a specific announcement made by the Premier on 10 December that he was soliciting candidates for this position of employment equity commissioner. I also know that the Minister of Citizenship, Ms Ziemba, has on several occasions in meetings informed persons that this position was available and that candidacies could be submitted. I was not a part of that process. This is information that I have ascertained, and I know that I did submit my candidacy.

Mr McGuinty: Right. I gather there was no formal public advertising by the usual means. By that I mean placing ads in newspapers throughout the province, for instance, major newspapers even. You are not aware of that?

Dr Westmoreland-Traoré: No, I am not aware of that. I know that this is a government appointment and I know there have been some situations where there has been a formal process, but I am aware that this is an order-in-council nomination.

Mr McGuinty: Okay. I do not know how many applications were submitted, but I understand 24 were considered. Do you know who the other 24 were?

Dr Westmoreland-Traoré: I would refrain from answering. Perhaps the Chair could give me direction on that. I would not like to be in that position myself. I mean, I would not like to be named as someone who had applied and—

Mr McGuinty: No, I am not asking for names. That was not my question. Perhaps I will rephrase it. Do you know—

Dr Westmoreland-Traoré: Yes, I do know of some persons who were—

Mr Grandmaître: Competing.

Mr McGuinty: Competing? All right.

Dr Westmoreland-Traoré: It is a small world. It is inevitable.

Mr McGuinty: Sure.

Dr Westmoreland-Traoré: Because, as I say, of the network of people who work in employment equity, in fact I knew all the people.

Mr McGuinty: I ask that because we are faced with a certain disadvantage here in that we do not know who else was competing for this position.

I am going to ask you another question related to that. Since you know some of the others and we do not, do you feel that you are the best qualified?

Dr Westmoreland-Traoré: I think that that would be totally subjective. I would need—

Mr McGuinty: All right.

Mr Stockwell: That is what politics are all about.

Dr Westmoreland-Traoré: I have a certain amount of confidence and assurance that I will be able to fulfil the position with competence.

Mr McGuinty: I would be surprised if you answered me in any other way. I understand that your contact, which led to your being here today, consisted of two telephone calls and two interviews.

Dr Westmoreland-Traoré: I would say directly, if you wish.

Mr McGuinty: Tell us something about the indirect contact.

Dr Westmoreland-Traoré: When you say "that led to my being here today," I did myself consult many people and ask them if in their opinion they felt it would be the right decision for me, taking into account the different factors in the situation. So perhaps I misinterpreted your question. My being here today is the result of my consultation of many people, discussion, study of what was involved in this mandate.

With regard to the outreach, the fact is that I was consulted by the person whom I mentioned, and I also received an invitation from, as I said, Carol Phillips's office. Then the second invitation came from the minister's office.

Mr McGuinty: Those are the persons with whom you had the telephone conversations and the persons with whom you met, including the minister. Had you made their acquaintance prior to these contacts?

Dr Westmoreland-Traoré: The initial person, June Veecock, I had known because we are members of the Congress of Black Women of Canada, Ontario Region. I met her, I believe, in Halifax in 1989; that was the first time I met her. Subsequent to that, she was a student, I believe, in Prince Edward Island, but I could be wrong. There were many people who came to Prince Edward Island—

Mr McGuinty: And lived.

Dr Westmoreland-Traoré: —for the human rights training, so I may have known her there at that setting. But independently of that, no, this is the first time that I am meeting the people involved in the selection process.

Mr McGuinty: Have any of the terms of your employment been established, and if I might ask one by one: With respect to the term itself, I gather it has been fixed at three years?

Dr Westmoreland-Traoré: That is what I understand.

Mr McGuinty: Okay. Have there been salary—

Dr Westmoreland-Traoré: I am trying to negotiate a clause with regard to renewal. I do not want to be trapped.

Mr McGuinty: Okay. Have there been salary negotiations?

Dr Westmoreland-Traoré: I have been told that it could be in an EC5, an executive compensation 5.

Mr McGuinty: Right. Have benefits been discussed?

Dr Westmoreland-Traoré: I have been put in contact with a benefits officer, a very qualified person at the Ministry of Culture and Communications, who has informed me of the options.

Mr McGuinty: Have you selected any options?

Dr Westmoreland-Traoré: I am investigating the option of opting into the employment benefit and retirement plan of the Ontario public service. It cannot be confirmed yet, because I am going through the process, but at the same time I am investigating so that when the process is completed, I will know where I stand.

Mr McGuinty: What about a start date?

Dr Westmoreland-Traoré: The start date has changed. Initially it was hoped that we would begin, we could go forward in January, and then the process went before cabinet, I believe, on 14 February, which was St Valentine's Day. Then there was the question of scheduling these meetings and so forth. At this point I do not know when the commencement date may be. I hope soon.

Mr McGuinty: I am going to move on to the next area then. You made reference to quotas and numerical targets, and I probably have the same difficulty that Mr Stockwell has in understanding the distinction. I think perhaps what underlies your thinking there, and you can correct me if I am wrong, is a problem of perception. The word "quota" conjures up different meanings because of the historical context.

I can recall in grade 10 English a teacher telling us that if a child walks across the room to get on to a rocking-horse, if you are writing a short story and you say, "The child climbed on to the horse," that is one way of putting it; but if you say, "The child mounted her steed," that is another way of putting it, and they both conjure up a different image. But the problem is, a horse is a horse is a horse, and I think the problem of quotas, whether we call it a quota or a numerical target, still remains. I guess the Employment Equity Commission is a proposed solution to a problem, and I want to put something to you and perhaps have you respond.

I think you have described the problem as systemic discrimination. We are all subject to human frailty, and perhaps one would argue that prejudice and discriminatory practices are inherent in humanity and will remain, have been a problem since time immemorial and will continue to be so into the future. Given that negative outlook—some would call it realistic—what hope can the Employment Equity Commission have in accomplishing its task? I will leave it at that: What hope will it have?

1110

Dr Westmoreland-Traoré: I am beginning to have a few years of experience now. When I began working in the human rights area, there were no human rights codes. There was a little bit of antidiscrimination legislation dealing with hotels, campgrounds and motels. So I can see what changes have taken place in the legislative context.

I think now we have not only a situation where we have codes that are seen as quasi-constitutional documents, but we also have a charter that enshrines equality rights and we have a clause that specifically covers affirmative action in our charter. I think those are some fundamental changes and they are also the result of a process of public participation in the sense that there was parliamentary involvement in adopting these legislative tools.

So we can say there has been a certain evolution in the standards and the values of our society, and I think that in Canada and in Ontario today we no longer accept that there are ghettos of employment. We no longer accept as normal and acceptable that women should earn for the same work only two thirds of what a male counterpart would receive when both are equally qualified and have the same experience. I do not think that we accept any more that disabled people be regarded without taking into consideration their abilities. They should be encouraged to work and participate according to their abilities.

I think that those are fundamental changes within our society and I believe that employment equity will be an additional tool. I do not think that it is the entire solution to social change, but it is an important tool, because, as you said, we are beginning now to see that when dealing with change, we can be more effective if we concentrate on the effects and the practices rather than on the intentions and the feelings. Employment equity is the strategy that allows us to use rather conventional methods of planning, to adapt them to the employment setting and to encourage people to change their practices, not necessarily to change their internal thinking. But we will see that when we change practices at a

certain point, perhaps in a way that is unobserved, in effect there begins to be a change within our thinking, because we are in contact with people, we are working with them constantly. We begin to develop social relations and certain superstitions that we had formerly fall by the wayside. Even though it is a process, the process becomes at a certain point part of the solution.

I am very positive. As I said, I have seen changes already; I know that these changes are beginning. The headline in the Globe and Mail today talks about the revelations of the annual report of the federal human rights commission, and there is obviously a long road to travel. But we have to put the tools and the institutions in place in order to effect this change.

Mr McGuinty: How am I doing on time, Mr Chair?

The Vice-Chair: You have got about five minutes.

Mr McGuinty: Where does Ontario place in the world in terms of employment equity?

Dr Westmoreland-Traoré: I will be honest with you. I believe that today Ontario is taking the lead in bringing about equity in the workplace. I believe the pay equity legislation is unique and it is very important. It takes a proactive approach to redressing one of the very basic inequities. We may limit ourselves to the employment setting, but what a person earns also determines the quality of living for that person, the educational opportunities of that person and also his family and to a certain extent his community. So attacking the issue of pay equity is very important.

I believe also there are guidelines now in the human rights commission in Ontario dealing with adaptation planning for disabled people, which is also a very fundamental area.

I know there are initiatives with regard to race relations in Ontario, and one of the most remarkable is the new legislation dealing with policing and the affirmative action that is now legislated with regard to police forces in Ontario.

Ontario is, I believe, a microcosm of many social issues, many social areas. If we look to the composition, the multi-ethnic, multiracial composition of Ontario, we will see that it is very diversified, more so than many other parts of Canada, and therefore the challenges are there. There are areas that are very difficult. I believe there are areas of racial minorities where there is a double disadvantage. There are historical patterns of discrimination and prejudice and they require specific measures to be overcome.

On the other hand, I think that in Ontario today there are possibilities for opportunity and there is a recognition of the need for this employment equity legislation. I have seen it being supported in areas, designated groups. Unions have been very vocal on this issue, as well as the manufacturing and commercial community. I think, bringing those different elements together, there is opportunity for sustained change in Ontario.

Mr McGuinty: There are a few points that were raised by our committee's research officer, and these are concerns that have been raised by business representatives. I wonder if you might address those. The first issue is that some businesses feel they will be forced to hire unqualified workers. I am sure these are classical arguments, but I would like to hear your response to them, please. Second, there is the impact on other employees who feel that they are being passed over. Thirdly, they feel there may be a problem that there are simply not enough eligible potential employees in the target groups.

Dr Westmoreland-Traoré: Okay. You know, we are dealing with a lot of people when we talk about employment equity. We are talking about 60%.

Mr McGuinty: Yes.

Dr Westmoreland-Traoré: The whole phobia around forcing employers to hire unqualified people—if we look, for instance, at one group, people of different racial and ethnic origin in one setting, we will find that on average within that group we have persons who have more qualifications. We have 27% of the group with university education as compared to 17% of the general population in Ontario. These are Ontario figures. So when we look at the bottlenecks that have been created for this particular target group, we will say that it is not related to qualification in terms of education and experience, that in fact there is a pool of people that is being underemployed and underpaid.

When we look to the group of women, we can find the same situation. It is a fact that there are certain areas in which there has not been the opportunity, and therefore the experience is not the same as with other groups. In situations like that, we have found it important to examine alternative methods of acquiring pertinent experience, because a person may not have had experience in the conventional sense in a particular work setting, but may have experience that relates to the type of functions and tasks performed in that employment and that can then be evaluated and will qualify the person effectively.

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I find that the whole question of forcing people to hire unqualified is very much of a bog and I feel that most often there is a breakdown in outreach and in the selection process. I do not feel the objective of employment equity is to force employers to hire people who are incompetent because there are sufficient numbers of competent people available. You would be surprised at the number of times that employers will offer training, will offer to place people in circumstances where they can acquire experience in order that they can be promoted and work in a new occupational setting. When I say this, I am referring to that group of people that in the past has more or less been favoured within the workplace, and we call those people white, able-bodied males of heterosexual orientation. You would be surprised at the affirmative measures that exist already in practice for that group of people. What we would like to do is simply make the playing field more fair.

With regard to the impact on others, I feel there will be an impact on others. I feel that if we are talking about equality, it means sharing, but I do not believe that it necessarily means sharing the same pie. I believe that when others are included, we are going to increase patterns of consumption and possibilities; we are going to increase the need for education and training facilities; we are going to develop further potential in our economy and in our society.

Therefore, I think that when the competition is fair, we are going to get the best candidates—the best candidates are going to be selected—and also we are going to be working in a larger economic setting.

Now the impact on others, I know, is a consideration for employers and for managers of human resources because it has to do with the motivation, the dynamism, the culture in a particular setting. Therefore, it is important to have an informational, educational, communication strategy so that people will understand what the objectives are, how they are going to be achieved and what everybody's opportunity is going to be.

This privileged way of attributing certain employment opportunities has worked to the disadvantage of many people, including some in that traditional group that I have spoken about, because the opportunities very often have been shared by personal relationships. In an employment equity setting, there will be more transference, which means that all people will be able to compete for certain opportunities.

The other thing, and maybe the final thing I will mention because I know you can only talk in generalities here, is with regard to setting objectives, and I still maintain there is a difference between the numerical objectives and the quotas. With regard to setting the objectives, whether they be numerical or qualitative, there is a factor of reasonability and a factor of impact upon a particular setting, and that is a serious matter that has to be evaluated together with all the other factors. There are many practitioners now in employment equity who are skilled and who are able to evaluate with employers who are of goodwill to bring about and to set up targets that are appropriate to any particular setting.

Finally, with regard to there not being enough eligible employees, in a certain way, this comes back I think to the first question: that at the same time, with regard to setting up these targets, it is important to take into consideration not only those people who are available to do a particular task, but also those people who are readily available and can be qualified in a reasonable period of time. This is because employment equity strives to create a representative workforce and strives in fact to promote equality within the society.

It is a shared burden. It is a burden for the employment situation as well as for the larger community, and I think that is why there is also provision in the draft legislation for setting up an institute to help in the training, an institute that would be funded both with public and private funds that would assist in training and retraining of employees and workforce in Ontario.

This is an issue, but I think it is an issue that is a part of an employment strategy, and employers will benefit as much as employees and target groups, including native peoples, if there is a better understanding and a better planning for workforce assets as they are in Ontario now. Where we find areas where there has been a historic and traditional disadvantage in a particular group, then the particular measures will have to take that into consideration, and the measures probably will include more outreach, more training, more communication than in settings where we have readily available large pools of qualified candidates.

Mr Stockwell: I will go back and go on the record in saying I frankly do not see any difference. Maybe I am just missing the point, but I definitely do not see any difference and I want to go on the record suggesting the targets—and if you could give it to me in writing, maybe I will understand it better that way.

Another question is, we have now, it seems to me, Ontario policy on race relations, the race relations directorate in the Ministry of Citizenship, to promote this, as well as the Office for Disabled Persons, the Ministry of Labour, and so on and so on. It begs the question. We now will be setting up this commission on employment equity, but it seems that some of these programs were adopted or in fact incorporated elsewhere in the government. They are obviously new ideas and concepts that you are bringing forth, $25 million to $31 million in new program money.

You are talking about a three-year contract. The likelihood of your being turned down by this committee is as likely as our organizing a parade down Bay Street for the Toronto Maple Leafs winning the Stanley Cup. You are going to get this job; there is no doubt in my mind. There are a number of NDP members here who happen to agree with Mr Rae, surprisingly. So when you come back in three years, how are we going to measure your success? We always have words. We interview and there are words and then someone comes back a few years later and there are new words and new phrases and new terms.

If it were my money—and I suppose a small portion of the $25 million to $32 million is—it is more than I prefer, but it is my money, and the question I have is: When you come back in three years, where do you want to be? If you are not at a certain level or have not achieved certain goals, you would consider it to be less than successful, I suppose. What is rousingly successful? What is excellent in your opinion?

In three years when you come back, I want to be able to sit here, if I am on this committee, and say: "Gee, you have not accomplished what you said you were going to accomplish. Is it your fault? Is it the government's fault? Whose fault is it? Let's determine where we have to go from here to achieve what we wanted to achieve."

Dr Westmoreland-Traoré: First of all, with all deference, I am not the government. I will be named employment equity commissioner and, during that preliminary period, I will be responsible to counsel the minister on the adoption of legislation. My first objective personally will be to see that that material and that advice is submitted to the minister and the government within a relatively short short time so that the legislative process will begin. I believe that for that legislation to go forward, it will require the co-operation of all MPP. At the same time, I believe, as a part of my mandate, I will participate in interministerial committees.

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You have mentioned that several programs exist. There is now a strategy within the Ontario public service dealing with employment equity, and I will be liaising with the

Human Resources Secretariat and with other agencies, the women's directorate as well as the body for the disabled employment, the council for the disabled employment and the agency for disabled employment within the Ministry of Labour. I will have to do a certain amount of collaboration, consultation, co-ordination with the other agencies that are within government and that are operating.

I will be called upon also to interrelate with the public sector in Ontario, the municipal organizations that have been very active in employment equity and have plans in different stages. With the unions and with management, there will be on the part of the commission a close relationship once this commission is set up.

If you ask me what my objectives are, my first objective is legislation, and I think that is the fundamental change that I hope will be accomplished. That legislation will bring in mandatory employment equity programs with content in the Ontario society.

Mr Stockwell: Mandatory employment equity programs—

Dr Westmoreland-Traoré: With content.

Mr Stockwell: —with content.

Dr Westmoreland-Traoré: That is right.

Mr Stockwell: The key phrase there.

Mr Owens: Keep going.

Mrs Haslam: It was one of your usual remarks.

Mr Stockwell: Huh? I did not hear that.

With content, okay, and I guess that is going to be the difficult definition.

Dr Westmoreland-Traoré: I think it is important because once the legislation is in place, it will be a structure as well as a guide. It will set up the commission and the commission will begin its work. As far as I can see, if these three objectives are attained within that initial period, then I believe a certain major part of my mandate will have been accomplished.

I believe that in the setting up of the commission, in requiring the negotiation and the adoption of these plans, an evaluated process can begin, which in effect will mean that persons from the different groups will have additional opportunity, will know of their opportunity, and there will be specific preferential measures in place to help redress the imbalance that has occurred within the employment setting.

Mr Stockwell: Is there any particular legislation regarding mandatory employment equity with content now available elsewhere that we could look to?

Dr Westmoreland-Traoré: Elsewhere than in Ontario?

Mr Stockwell: Right. North America. I do not know.

Dr Westmoreland-Traoré: Within the public service of Canada, there have been some affirmative action measures. However, these affirmative action measures have not been very successful. The best example is the legislation dealing with the participation of francophones in the federal public service, where there has been a remarkable improvement in the representation.

Within the United States, which is elsewhere if you wish, there has also been some marked improvement in the integration into the workforce of women and a better distribution and representation of women within that workforce. This has been accomplished through the contract compliance mechanisms.

Mr Stockwell: Contract compliance?

Dr Westmoreland-Traoré: That is correct. The contract compliance mechanisms impose affirmative action programs for certain suppliers and for certain contractors with certain federal agencies, and they exist also at other levels. So these are in a way mandatory affirmative action programs. We have found that voluntary—

Mr Stockwell: Like union shops, in essence? As a supplier, must you be a union shop with contract compliance?

Dr Westmoreland-Traoré: This relates to a different area. This relates to a different area. The affirmative action that I am referring to has to do with minorities, women, native people—

Mr Stockwell: I understand that, but the contract compliance would be set up in that fashion.

Dr Westmoreland-Traoré: The contract compliance is a clause that is monitored by the Federal Bureau of Investigation. There are reporting requirements. There are surveys to be done of the workforce. There are objectives that have to be attained with regard to the groups that I have mentioned and this is not done, as far as I know, in a particularly structured way with unions in the United States.

Mr Stockwell: Okay, thank you. The next question, and I suppose it will be my last, if we are going to have 10 minutes left—

The Chair: You have got quite a bit of time.

Mr Stockwell: Oh, are we going to go 20 minutes?

The Chair: You have another 10 minutes anyway.

Mr Stockwell: That is fine. When you refer to mandatory employment equity with content, would the content include numerical targets?

Dr Westmoreland-Traoré: I believe it is important in any process of planning that there be objectives that are readily known and that have taken into account the particular setting with regard to the size of the workforce, with regard to turnover in the workforce, with regard to growth in the workforce, with regard to availability. I believe that with regard to employment equity it is important that we have numerical targets so that the administrators will know what is expected of them at all levels of the organization so there can be a certain amount of accountability.

It will also be important for people in those target groups, so they can know what is to be expected. In order for these targets to be workable, it is necessary that they be associated with certain qualitative measures that deal with information, that deal with training, that deal with removing barriers within the workplace. The targets cannot be achieved unless jointly there are other measures that are qualitative within the workforce.

The other thing that perhaps is not always put forth with the same vigour and which is nevertheless equally important is that within the employment equity planning

process there are what we call general measures, measures that are going to be of advantage and benefit to all members of the workforce. Examples of this, for instance, are day care facilities. Day care facilities are often seen as an advantage to women: They will help women participate more fairly in the workplace. But in fact, when there are day care facilities, they are of benefit to all employees in the workforce. You will find many measures that will be important and will improve the workplace setting and the quality of the workplace setting within an employment equity program.

Mr Stockwell: Thank you for your attendance I look forward to the legislation.

Mr Sutherland: I just want to ask a couple of questions. Many companies have talked openly in the media and certainly in some of their publications and annual reports about changes in human resources strategy in attempting to get the best people for the job. I was wondering whether you would care to comment on whether you think those types of strategies have had any impact whatsoever in creating a more equitable workplace.

1140

Dr Westmoreland-Traoré: I feel that the best people can raise different considerations. I think the objective in a fair employment situation is to recruit qualified people for the positions that are to be filled, and those qualifications have to be determined according to the essential functions to be performed by any individual. There has to be a review of the description of the particular employment, as well as the qualifications that are required for that employment, for us to make sure that the system is non-discriminatory. When we begin with the question, the best people, this can lead to a certain amount of subjectivity. It is important for us to look at the objective requirements and whether those requirements are in effect in relationship with the essential functions to be performed.

Once this is done, I think we have to examine the recruitment strategy that is used, because in order to effectively obtain the qualified people—and there can be many people who are qualified for the position—we have to see whether the recruitment is in effect non-discriminatory. It is only after we have gone through the whole process that we will see whether those strategies that purport to recruit the best people are in a position to recruit the best people.

Mr Sutherland: My second question has to do with the issue of distribution, which we have not talked about too much this morning. I certainly know the goal of employment equity is many people in the visible minorities and those groups are working in very low-paying jobs. I was wondering whether you see the goal as just to move them up into some of the areas of high-paying jobs where they have not been represented or into areas of management and decision-making?

Dr Westmoreland-Traoré: I do not think anybody would refuse an increase, especially if a person is qualified and has been underpaid for a certain amount of time. But I think that is one of the factors in the general employment setting. I think the major objective of the employment equity legislation is to give all the employees and potential employees a fair opportunity to participate and to obtain employment in all the different sectors of a particular industry or institution. When we find there are groups that have been relegated to certain areas and they are overrepresented in certain areas and very much absent in others, then we know there are hidden barriers for these groups. There are hidden barriers for women as well, and one of the things that amuses me, even though it is very serious and indicative of the discrimination in our society, is the fact that, as we go along with certain programs, we find that we create new ghettos. We have created for women what is now called a velvet ghetto: It is the role of women executives in certain functions such as communications, personnel and employment equity. I think we have to be aware and we have to have a strategy that is company-wide, institution-wide, in order to avoid these dysfunctions.

Mr Sutherland: One more question, if I may, Mr Chair. You talked earlier about being happy with some of the changes seen from a legal standpoint, in terms of human rights codes that have come into place, the Charter of Rights and the proposed employment equity legislation. What is your overall sense of attitudes in the public at large to those changes?

Dr Westmoreland-Traoré: I think there are different levels and there are different levels of consciousness. I think there is certain speech that today is no longer acceptable. I think that in many communities now, whether they be management communities, union communities or public forums, people are much more knowledgeable as to what type of discourse is acceptable. People have become very sophisticated with regard to human rights communication.

At the same time, I feel there are still very basic discriminatory practices, that there is exclusion within this society, that it is covert and that we are obliged to take these concrete measures in order to get at it and to get the results. I do not believe we are going to be able to change attitudes overnight, but I believe it is important to require of people that their behaviour be socially acceptable and I think that that is what we can assure that we can begin to achieve.

Mr Wiseman: I would like to go down a different road with you just for a minute, and it has to do with areas that turn out to be barriers that people did not expect to be barriers in the first place. For example, let's say you are a small businessman and you have two very qualified people. The job is to use the telephone a lot and do a lot of long-distance telephoning, and one of your very qualified people is totally deaf and uses the machine called a TTY machine.

You are stuck with a major problem because you may want to hire that person but you know your long-distance phone bills are going to be prohibitive. Bell Canada would give you a benefit on long-distance charges using your personal phone but will not do it for business. There you have a barrier that was not perhaps meant to be a barrier but turns out to be one. Have you any thoughts about looking at how those kinds of barriers can be removed, particularly in that kind of situation?

Dr Westmoreland-Traoré: I think the first requirement is really to examine the workforce, to examine the requirements, to examine employment practices and to eliminate that which is discriminatory. I think that is the first obligation and it is an obligation simply under antidiscrimination legislation. As a part of that first obligation it is necessary to incorporate reasonable accommodation. That has nothing to do with employment equity; it is simply antidiscrimination, and reasonable accommodation has been defined as being those measures which are necessary to permit a person who is qualified to do the essential functions of a particular work, to allow that person to be employed, provided it does not cause undue hardship. There are within the codes rules and an interpretation of those rules dealing with undue hardship.

I cannot answer in a particular setting what would constitute undue hardship because I would have to know the size, I would have to know what the gains are, I would have to know what other measures have been taken within that company. Many factors go into play to decide whether it is undue. It may be that this person would be available to do another function. It depends on the overall, but it is a fundamental requirement of non-discrimination that there be reasonable accommodation, to the extent that it does not incur undue hardship for employers.

I think we have to give the necessary information and also provide support in the sense that there will be additional training that permits a person to have a larger opportunity for applying to positions of different kinds and not to be restricted to any one particular employment. This training can be a financial obligation that is borne not only by the company individually but through certain public measures as well. These public measures can also be available through professional centres, through some of the high schools and some of the regional the technical institutions. It is a collaborative effort, so that you cannot automatically pronounce yourself on one specific instant, but it is a fact that the question of accommodation is essential and the fact of undue hardship is also a part of that definition of accommodation.

Mr Wiseman: Thank you.

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Mr Owens: This is a point of personal philosophy. I am a little bit saddened that we actually have to appoint an employment equity commissioner in this province. I am also saddened by the fact that we have to legislate dignity in the workplace. As I look across the committee room I see that without having this type of legislation we have clearly disfranchised a pool of talent basically in favour of those who are white, male and ambulatory. That, as a human being, saddens me.

My question is with respect. The phrase you use, "tools in the workplace." What type of tools would you see being put into the workplace to ensure that employment equity is not only carried out to the letter of law? We all know that there is a letter of the law and there is a spirit of the law. How would you ensure that that spirit is carried out in its fullest intent?

The Chair: Doctor, I am going to encourage you to keep your response to two to three minutes because we are on a tight schedule here.

Dr Westmoreland-Traoré: Okay. I think the commission can be instrumental in making available to all parties concerned in a particular workplace, that is, the management, the union and the particular designated groups, different measures that can help to ensure that the objectives will be met. These measures will depend on the particular circumstances of a workplace. I see that where you have a workplace in which you have a number of employees representative of the general population, a number of employees from the particular designated group, but these people are in fact segregated in certain employment areas, then there are different possibilities.

Some of the possibilities deal with bridging; some deal with improving mobility within the organization, lateral as well as vertical; some deal with allowing some of the employees to gain experience in positions which are created temporarily; some include additional training or apprenticeships in situations that will allow that person to be eligible for new competitions as they open. In other words, measures can be taken to improve the mobility of people within the organization, and there can also be measures that allow people within an organization to move from one sector of the organization to another.

I feel that when we want to make employment equity effective, we have to look at the gamut and we also have to be creative. There are measures that can be devised in certain sectors that we have not yet thought about but which we will encourage.

The Chair: Mr McGuinty, a question and response up to five minutes.

Mr McGuinty: Doctor, you must have had discussions with someone at some point advising you that you were to appear before this committee. What is your understanding, please, of the role of this committee with respect to your appointment?

Dr Westmoreland-Traoré: I discussed with the clerk of this committee, who sent me the rules of the committee and some examples, and therefore I understand that this committee will examine, will question, will deliberate, will make a recommendation that will then go to the House, eventually to cabinet, and at that point cabinet will adopt an order in council. As far as I am concerned, an order in council appointing me has not yet taken place.

Mr McGuinty: Did anybody other than the clerk discuss the role of this committee with you?

Dr Westmoreland-Traoré: Carole Phillips, who is the assistant to the Premier, also discussed the role of this committee with me.

Mr McGuinty: Has anybody commented on your chances of meeting with success here in terms of having your appointment approved by this committee?

Mr Stockwell: Yes, I did.

Dr Westmoreland-Traoré: Thanks.

Mr McGuinty: Other than the members of this committee.

Mr Stockwell: I have been deadly accurate so far.

Dr Westmoreland-Traoré: Many people.

Mr McGuinty: And what do you understand your chances to be of meeting with success here?

Dr Westmoreland-Traoré: I am a very optimistic person.

Mr McGuinty: Before you came in here, for instance, undoubtedly you understood that your recommendation was made by an NDP minister and that there are six NDP members sitting on this committee versus five opposition. Did you understand that before?

Dr Westmoreland-Traoré: I know that it was a third party that asked to meet me.

Mr McGuinty: That was not my question. Did you understand the political makeup of the committee?

Dr Westmoreland-Traoré: I was told that there were a majority of members of the NDP party on this committee, but I understand, from reading different documents and also from the rules of the committee, that this process is to ensure that the nomination process is a transparent process, that the members of this committee and the general public are informed as to who government nominees are, what their background is, what type of qualifications they may bring in to the position. I feel that is democratic and it is a good process, even if personally it can at times be trying.

Mr McGuinty: Are you apprehensive in any way about the outcome of our deliberations?

Dr Westmoreland-Traoré: Well, I am sensitive—

Mr Grandmaître: Do not be.

Dr Westmoreland-Traoré: I will leave it at that.

Mr McGuinty: I will conclude by saying that those questions and the ones that I posed earlier are not directed in any way to you personally, but rather to help me and perhaps other members of this committee understand the process that we have to contend with. I want to take the opportunity to welcome you to Ontario. I want to welcome you to your position. The appointment will undoubtedly go through. I think the challenges before you are daunting, formidable, but I do not think they are insurmountable, and I am heartened by your faith in humanity. I thank you.

Dr Westmoreland-Traoré: Thank you.

The Chair: I shortchanged the government party and there are a few minutes left. Mrs Haslam, I think, would like to have another question.

Mrs Haslam: I just want to go on the record Mr Chair, to say that I do not see this as a discrimination against me, even though I was first on the list and you passed me over for three male people on my side.

Mr Stockwell: White, heterosexual—

Mrs Haslam: White, male. Look around this committee. And I face this situation quite often.

Going away from that and looking at time—and I would have passed by it, but I feel it is a very important area that perhaps we have not had any comments on—I would ask you just to comment briefly on situations in our ridings where we now have associations for community living. The people are coming out of homes and they are going into the community to live. They are looking for jobs and work in the community rather than a workshop situation. Would you comment on that and where you feel that can fit into this employment equity?

Dr Westmoreland-Traoré: I think that inasmuch as persons with disabilities are specifically one of the designated groups, the employment equity strategies have to be designed to take into account the special needs of this disabled community. I know that as we do our work or in future as the commission will do its work, it will probably be overwhelmed with the amount of planning and the amount of information and the amount of communication that has to be done, but I think it is important for the commission to take a balanced approach and to make sure that each of the designated groups receives the proper attention and is a part of our planning strategy at the level of the commission itself.

With regard to people who begin living in the community, I believe one of the most important things is that they can be employed according to their abilities. For this to happen there has to be employment opportunity, and for them to be able to have access, there has to be a certain amount of outreach on the part of the institutions and the employers that they can normally address themselves to.

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I think this will be a challenge for communities across Ontario and in the major urban settings: that they see within their workforce to designate and to describe properly the requirements and qualifications for the different types of employment. If they do not look again at the types of qualifications for the essential functions in their different positions, then they can continue unwittingly and unintentionally to discriminate against this community group. Of course the whole community bears the burden of that exclusion because then these people do not reach their potential and obviously they remain within social service settings.

The Chair: Thanks very much, doctor. That concludes the interview, and we thank you for your appearance here today and wish you well.

Dr Westmoreland-Traoré: Thank you very much.

The Chair: Before we adjourn, members, we have a couple of matters to discuss. As you know, there was a bit of a brouhaha in the House yesterday in respect of our request for additional sitting time. One of the problems apparently is that, even though we made a request for additional sitting time, we were not specific in terms of what was an appropriate time for most of us. The suggestion arrived at by at least two of the party whips was Thursday afternoon, which is indeed going to create a number of problems for some members of this committee. We have been asked to suggest an appropriate time so the government House leader can introduce a new motion today establishing that additional sitting time. Mr Grandmaître?

Mr Grandmaître: Yes, Mr Chairman, on the same subject, I was very disappointed because I thought we had initially—

The Chair: Excuse me. I would ask those in the audience to move out into the hall if you want to have discus-

sions, because we are still trying to carry on this morning. I would very much appreciate it. Sorry, Mr Grandmaître.

Mr Grandmaître: I think we initially understood among ourselves that we would prefer Wednesday, but now they are thinking of having us sit on Thursday afternoon, and I must advise the Chair that none of us can attend a Thursday afternoon meeting.

The Chair: Put on the record that Thursday afternoon is very difficult for me as well. Anyone who lives a distance from Toronto is trying to catch connections on Thursday afternoon or Thursday evening back to their riding. It poses a significant problem for any of us who are some distance from Toronto.

Mr Waters: I checked with someone from the whip's office on the way in and the three whips are sitting down to work this out at this point in time.

The Chair: They are looking for some direction from this committee.

Mrs Haslam: Just as a point of clarification, to tell you the truth, Thursday afternoon is not a good time for me either, but it is not a good time for another reason. Are you saying that people will be leaving on Thursday afternoon and therefore this time is not good?

The Chair: To catch flight connections, trains, those sorts of things.

Mrs Haslam: Before 6 o'clock?

The Chair: If you try to leave here to get out to the airport, even if you are leaving at 5:30 or 6 o'clock, it is a pretty difficult thing to do.

Mrs Haslam: Then how come I am on call until 6 o'clock?

The Chair: The suggestion has been made on Wednesday afternoon. I am just looking for some consent on that, if we can look at that as an alternative.

Mrs Haslam: I believe there is already another committee on Wednesday afternoon.

The Chair: Maybe we are going to have to hold back on our suggestion for extra sitting time, if we cannot reach agreement on this. Mr Wiseman?

Mr Wiseman: I think there can be consensus on when time is available for the committee. Wednesday afternoon was mentioned. How many have a bad Wednesday afternoon? How many cannot make it Wednesday afternoon?

The Chair: To expedite this, why do we not refer it to the subcommittee? Each caucus can discuss it and come up with two or three alternatives. We can have the subcommittee look at it and resolve it.

Mr Wiseman: It looks like Wednesday afternoon is best. If you have House duty and you have to be in the House, that is a problem, but—

Mr Stockwell: What are you going to do today? What are you going to ask the whips to do in the House?

Mr Wiseman: We will have to ask the whips to hold it.

Mr Stockwell: Fine. I think I would prefer it. I do not think we have anything pressing anyway.

The Chair: Do you want to refer this to the subcommittee then?

Mrs Haslam: Is that what the problem was in the first place, that the subcommittee had not met to discuss this?

The Chair: It was discussed. In essence the committee requested additional sitting time because of the number of appointments coming before us.

Mrs Haslam: Yes, I have the letter. Was it just that the date was not appropriate or what was the problem?

The Chair: Thursday afternoon is a problem for many members of this committee.

Mr Grandmaître: Absolutely.

The Chair: They simply will not be able to attend.

Mr Grandmaître: And if we cannot agree on Wednesday afternoons, Mr Chairman, then we will revert to our normal Tuesday or Wednesday meetings.

The Chair: I think that is the alternative being suggested. If we cannot agree on Wednesday afternoons, we are simply going to withdraw the request for additional sitting time.

Mr Stockwell: Who does have trouble with Wednesday afternoons? I have not heard any members tell me they have trouble with Wednesday afternoon.

Mrs Haslam: Me. I think there is another committee. I have to check my House schedule. I am sorry.

Mr Stockwell: So you have one person who has potentially got—

Mrs Haslam: But we are leaving it until the executive meet.

Mr Grandmaître: Well, I think we all have—

The Chair: Can we agree to get back to the subcommittee? Okay.

Mr Waters: I made a note of it.

Mr Owens: I am substituting—

The Chair: There was one other suggestion, was there not? A request for a change of starting time for next week.

Mr Stockwell: Yes, next week we are going to have an hour to determine whether the committee concurs with the tenant appointment review on 20 March. Can we move that from 9:00 to 9:45?

The Chair: Do we have any disagreement with that?

Mr Stockwell: I do not think we are going to have a long debate.

Mrs Haslam: I do not think we are either.

The Chair: All right.

Mr McGuinty: Mr Chairman.

The Chair: Wait, please. Mr McGuinty has another request.

Mr McGuinty: I wonder if we could just have some direction or a reminder for my sake in terms of how we are going to deal with proposing amendments to the terms of reference. Are we going to be meeting specifically to contend with that at some point?

The Chair: Yes. That is one of the matters the subcommittee should be dealing with in its next meeting as well, to set up a specific meeting so that we can discuss the report of this committee in respect of the permanent standing order.

Mr Stockwell: Can I make a motion that we refer that to the subcommittee?

The Chair: I do not think that is necessary. I think it is understood that that will be on our agenda.

Mr McGuinty: I was going to suggest that it would be helpful to have Ms Phillips appear before us once again in order to outline the procedure that is involved in advertising appointments, for instance, and generally what leads up to people appearing before us so that we can, with that information in hand, more properly address the terms of reference and any changes.

Mrs Haslam: Will that not be discussed in your subcommittee?

The Chair: I suggest that all members of the committee who have ideas or suggestions in respect to how we approach this advise their representative on the subcommittee. We will indeed discuss those at the subcommittee meeting.

Mr Grandmaître: Another point. The House was told that these nominations or appointments, the list of these nominees for jobs on agencies, boards and commissions would be published in libraries, at municipal chambers or municipal offices. I have not seen any of those lists, and a lot of my constituents are asking me, "Where can I see a list?" When do we expect a list in every library, as we were told? Municipal complexes, union halls, etc.

The Chair: We will inquire with the cabinet office and get an answer for you in respect to that. We will confirm it.

The committee adjourned at 1208.

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Standing committee on government agencies

Appointments review

Chair: Robert W. Runciman
Clerk: Douglas Arnott

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Première session, 35e législature

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 27 March 1991

The committee met at 959 in room 228.

PAY EQUITY COMMISSION

The Chair: I apologize for my late arrival. The first order of business is the 15-minute determination of whether the committee concurs in the intended appointment that we reviewed last week in respect to the Pay Equity Commission. We will open that matter up for discussion, or a motion to support or whatever the committee wishes to do at this point.

Mr Owens moves to concur with the intended appointment.

Do we have any comments, any discussion on the motion?

Mr McGuinty: Just a brief comment, Mr Chair. There is nothing that appeared to me to indicate that this person was not qualified. However, as usual, given the information we obtained here at this committee, I have no assurance whatsoever that she is the best person for the job. We have no information regarding the 23 others considered. She may very well be the best person, but we do not have that assurance and we are not familiar with the details of the procedure leading up to the selection of the 23 others. So as usual, although I will be concurring in this appointment, it will be subject to the usual reservation that it is based on the extremely limited information that was presented to this committee.

Mrs Haslam: As usual, I take the opposite position, and I would like to reiterate, as I have done in all of these committee meetings, that we are not a hiring board.

Mr Bradley: That's for sure.

Mrs Haslam: We are not a corporation interviewing 15 people for a job. We are a review committee. It is our job to ascertain whether the person in front of this committee, having been put forward by the Premier's office or by the secretariat, has the necessary qualifications, has the necessary experience and whether, in our estimation, he or she fits or is suited for this position. In this case there is definitely no doubt, and I feel I must bring it to the attention of my honourable colleague that that is our job here. Our job is to say yea or nay as to whether their qualifications and experience suit this job. That is what we are to do.

Mr Bradley: Rubber stamp.

Mrs Haslam: Thank you, Mr Bradley.

The Chair: Any further discussion on the motion by Mr Owens that we concur with the appointment? All in favour of that motion? It is unanimous. Carried. Thank you very much.

Motion agreed to.

APPOINTMENTS REVIEW

Consideration of intended appointments.

LEONARD GERTLER

The Chair: The next order of business is the review of intended appointments selected by the official opposition. The first intended appointee on our agenda is Dr Leonard Gertler. Dr Gertler, would you like to come forward please, and have a seat? Welcome to the committee. Dr Gertler, would you like to make a few brief opening comments before we get into questions, or simply move right into questions?

Dr Gertler: I think I would welcome your questions.

The Chair: All right. Thank you very much. We will lead off the questioning with the official opposition.

Mr Bradley: I have only one question that I would ask the people who are appearing today that is, I think, relevant, Mr Chairman. I have confidence that the individuals who are coming before us today are all competent. They have been appointed to the Environmental Assessment Board; they are competent. I was always under the impression that the Environmental Assessment Board was besieged with work and that not only did the Environmental Appeal Board need more people but the Environmental Assessment Board needed more people. I guess I am surprised that the Environmental Assessment Board does not have more business than it has and has therefore the opportunity to loan people, or to have people cross-appointed, to the Environmental Appeal Board.

It is really probably an unfair question, unfortunately, to any of the people appearing today, because it should really go to the chair of the Environmental Assessment Board or to the minister, one of the two, as opposed to these people. But I will ask, I guess, a fairly routine question. Why is it you are going to have time to be able to be involved with the Environmental Appeal Board and the Environmental Assessment Board?

Dr Gertler: Well, very candidly, at this point, I do not know how my time will be divided between the two boards. I guess I am a candidate for the appeal board because I am responding to a request from my chairperson. What I surmise is that the two chairpeople in this case have decided it might be mutually beneficial if, for some members of the assessment board, the hearing schedules could be co-ordinated so that, in a sense, the time of those members would be optimized. That is my understanding concerning the reason behind this initiative.

Mr Bradley: Having looked at the kind of work that both boards do, I suppose there is a difference between the two, but there are some similarities as well. It is really hard to ask any questions in this regard because it is just so sensible in many ways. But do you feel, looking at the

kind of work that both boards do, that people sitting on the Environmental Assessment Board can easily adjust to the Environmental Appeal Board, or do you believe the procedures that are followed and the parameters within which you work are significantly different?

Dr Gertler: I think my answer would be that this would not pose a major concern. Both are governed by the Statutory Powers Procedure Act, I understand, as far as the sort of general procedures before the hearings. As far as the issues are concerned, I think the intrinsic environmental issues are ones that we should be able to address with equal ease or otherwise.

Mr Bradley: The other question I have deals with the issue of—and this is somewhat difficult, and, again, when people are relatively new to boards it is often unfair to ask them to make judgements. What seems to be happening with the Environmental Appeal Board—you would know the history from being briefed on the role of the Environmental Appeal Board or you may be aware of it in any event—the history has been that it has been a fairly non-legalistic board that has dealt in a fairly informal way with appeals over the years. That has changed now and the lawyers have by and large taken over the boards, and people are starting to appeal now because back when the control orders were not very tough, then there was really nothing to appeal and it could often be negotiated or something like that. I will not go back to the specific date, but we can all guess what it was, 26 June 1985. Now that governments actually put in control orders that mean something, we get more appeals. Are you concerned, as a person sitting on the appeal board, that you are going to be buried in legalese as opposed to logical, practical, scientific and technical argument?

Dr Gertler: I think this is an issue with both boards.

Mr Bradley: Yes, you are right.

Dr Gertler: There has been a tendency for issues that are increasingly complex to be referred to the boards—at least, I know in the case of the Environmental Assessment Board—for hearings. As that has occurred, there has been a tendency for parties to be represented by counsel. However, I have observed as a relatively new member of the assessment board that a good deal of attention has been given in recent months, if not longer, to ways and means of getting a good balance in the hearings between the requirements of what is sometimes called natural justice and the adversarial process, and the requirements we have to fulfil in pursuing the purposes of the acts under which we operate. So I think there has been a very earnest effort to respond in a sense to a variety of needs. Sometimes this is expressed as the search for the right balance between openness and efficiency.

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Mr Bradley: I have no further questions of Dr Gertler because I believe Dr Gertler is a man of competence, very appropriate for the job, very capable, and his long experience in the field will be very valuable to both boards. The questioning you saw directed was simply to look at potential workload and how that might be balanced. But I have full confidence in Dr Gertler.

The Chair: Thanks, Mr Bradley. Any further questions of Dr Gertler?

Mr Waters: I have one written down somewhere.

Mrs Haslam: I will ask mine, then. I must admit I am not as knowledgeable perhaps as the member for St Catharines on assessment appeals and assessment boards and things like that. However, I notice in your résumé that you are a fellow of the Canadian Institute of Planners, urban and regional planning; areas of research and teaching include settlements, Third World development, a lot of planning. I am sure that many of your colleagues view the EA clause as a bottleneck to planning. I was wondering if you could share some of your views regarding the relationship between planning and the environment assessment.

Dr Gertler: Well, I think they should perhaps be much closer than they are now as processes that proceed under different legislation. I think that when one confronts particular issues—whether it is an issue of a change in land use from an agricultural to a residential category or an issue concerning the right directions for the extension of major services or an issue in the Niagara Escarpment area related to how one interprets the permitted uses in, let's say, the escarpment protection area—whether one is looking at issues that may be regarded as intrinsically environmental or intrinsically land use planning issues, it seems to me that in either case one has to bring to bear environmental considerations as well as considerations of economics and other criteria.

So I think there is a need for a closer connection between these two aspects. I think that connection does not now proceed readily because each legislation, each set of legislations, has its own processes. They come together, I guess, in some special arrangements such as the consolidated hearings board, which is explicitly designed to bring these things together. But otherwise, I think it would be much more beneficial if the planning considerations and the environmental considerations could be considered early in their respective processes, before they become contentious and adversarial issues.

Mr Waters: There has been some discussion about the greening of the Planning Act, and I just wanted your opinion on what impact you perceive this having on the environmental process.

Dr Gertler: At the moment, of course, for most of us that is just a slogan and I am not quite sure what it means. But I can surmise that it means the Planning Act might be reshaped to accommodate environmental along with other considerations in decisions under the Planning Act. At present, the way planning is defined in the Planning Act, that is ambiguous. It is not at all clear that environmental issues are within the scope of the Planning Act, and I presume the greening of the Planning Act would be an attempt to broaden the scope of the act in this way.

The Chair: Anything further? Doctor, a fairly easy ride for you today. Thank you for appearing before us. We appreciate it and wish you well.

Dr Gertler: Thank you very much.

ALAN LEVY

The Chair: The next intended appointee, Alan Levy. Mr Levy, welcome to the committee. I will provide you the opportunity to make a few brief comments, if you wish, or we can move right into questions.

Mr Levy: Well, like Dr Gertler, I am also a volunteer, so to speak, for the appeal board, because I am currently sitting on the assessment board.

I can shed a bit of light on Mr Bradley's concern about the burden or the load in terms of scheduling when the two GTA landfill hearings were suspended. That affected all three of the candidates before you today. In the short term, we saw some slack in our schedule potentially until other matters get booked in to fill their place. That is how it came to be, as I understand it. Through discussions with the chair of the appeal board, it was seen as ideal, since their hearings tend to be reasonably short, that we fill in any holes of our schedule, certainly in the short run, and help that board out until our assessment board schedule gets filled back in. Those are my only comments.

The Chair: Thank you very much. With that explanation, we will begin with the official opposition.

Mr McGuinty: Do you see any potential for conflict, or can you imagine any arising from your acting under two different hats here?

Mr Levy: I do not think so because, first of all, I do not particularly envisage cases where there would be parties first coming to the assessment board for adjudication and then over to the appeal boards so that we would have conflicts where I might actually be on parallel panels with the same parties. So I do not see that problem.

As I understand the comparison, basically at the assessment board we review projects before they are created, and at the appeal board there are control orders and what not for existing matters, so it is looking at it from after the fact.

From my own view, it would complement my perspective to see problems as they develop in practice as opposed to, on the assessment board, just speculating in terms of the future which problems may arise. I do not see the conflict.

Mr McGuinty: Your position now with the appeal board, I guess, is going to be part-time. The assessment board is full-time and this will be part-time. Tell me, how is your compensation going to work? Do you continue to receive the full-time compensation for the assessment board?

Mr Levy: That is right. When I said volunteer, I meant there is no compensation for any work we do on the appeal board. I suppose if you turn us down, that will be fine.

Mr McGuinty: Let me get this straight—

Mr Levy: My understanding is that it is understood between between the two chairs that my main duties are with the assessment board and it is to the extent that schedule permits that I am slotted into the other one.

Mr McGuinty: So you will not be receiving any remuneration for your work with the appeal board?

Mr Levy: That is correct.

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Mr McGuinty: That is very interesting.

Mr Levy: I am open, however—

Mr Bradley: That kind of stops you in your tracks. That looks like a good line of questioning.

Mr McGuinty: I have been surprised, but never pleasantly. Thank you very much. I have no further questions.

Mr Bradley: I really do not have any further questions as well, because the questions have been asked. I cannot speak for everybody on the committee, but I think the main concern is the balance of time. If indeed that time is available, it makes sense that people who are capable of doing hearings and similar work, as Dr Gertler talked about—it has some differences, but similar work—it seems sensible.

Once again, Mr Levy is an extremely competent person sitting on the Environmental Assessment Board. I see no problem with his sitting on the appeal board, and any questions we would have about the workloads of both we can direct to the Minister of the Environment, I guess, rather than the members of the board.

The Chair: Anything further from members? Mr Levy, thank you very much, and we wish you well with your added responsibilities.

Mr McGuinty: Unpaid.

The Chair: Unpaid, yes.

JAMES ROBB

The Chair: Our final intended appointee is James Robb. Mr Robb, would you come forward, please? Welcome, Mr Robb. We will provide you with the same opportunity if you wish to say something.

Mr Robb: I think I am at the board's pleasure as far as questioning.

Mr Grandmaître: Do you agree with your colleagues? Anything you would like to add or—

Mr Robb: No, I think that Alan and Len have outlined the understanding we had, that we would be available to the appeal board if there were any spaces in our other hearing workload with the Environmental Assessment Board. It would just be a matter of flexibility between the two boards. If there were some short hearings, if we had some space between a preliminary hearing and the main hearing or something of that nature, we could help out with the appeal board's workload.

Mr Grandmaître: I find it very strange, Mr Chairman, that the two boards—usually boards do not get along. These two boards are very different. Continue your good work.

Mr Bradley: My question for Mr Robb is whether he is still going to have time, working on both the Environmental Assessment Board and the Environmental Appeal Board, to walk through the Rouge Valley.

Mr Robb: I do not get out there as often as I would like, but I try to. One of the ways I relax is to get out and walk. One of the places I like to go is the Rouge.

Mr Bradley: Mr Chairman, some of the newer members of the Legislature may or may not know that Mr Robb led the charge. He would not want to have full credit, but he was the person who probably had the most influence on a government decision that was made to save the Rouge Valley from a highway and from other potential uses, and it is rather interesting that people like that are now sitting on boards to make judgements. Before, we might not have seen that happen.

I certainly have full confidence in Mr Robb, and again, I think this is a reasonable move for the minister. The chair of the appeal board and the chair of the assessment board are present in the gallery today. If they both believe this is appropriate, and the minister believes it is appropriate, I think it is a sensible use of the time of people. It saves some money, as we have just heard, as well. It gives people a wider kind of experience, sitting on both boards, and it broadens their knowledge of the issues before us. So it is very sensible, I think, that they would sit on both.

Mr Wiseman: I see in your background—we know each other, honey; we fought. Do not fall all over the place together.

Are you aware that AMO is bringing forward new guidelines on protection of trees? Have you seen any of that?

Mr Robb: I have not seen it, no. I have heard that there is work on a trees act and various legislation, but I have yet to see it.

Mr Wiseman: I have a copy of it.

I guess the other question is—I do not know if I should even ask this. Apparently this morning there is a controversy brewing in Toronto about the chopping down of trees in front of the Rogers Cable TV. The guy who owns Rogers Cable TV wants to chop down 18 very old trees in front of his house, and he seems, if I heard it right, to have been given the go-ahead on that. Is this something that might come before your board as an assessment appeal?

Mr Robb: No. I would think that would be unlikely, given the past cases that I have reviewed that have come before the Environmental Appeal Board. There are usually control orders issued by the Ministry of the Environment regarding emissions into the environment, or in the past there have been smaller cases, I understand, dealing with permits for septic beds and that type of thing.

The Chair: Anything further? Thank you, Mr Robb, for appearing here this morning. We appreciate it and we wish you well.

Mr Robb: Thank you very much.

The Chair: Mr Waters, do you have a question?

Mr Waters: Before we adjourn, it seems we are all in favour of these three appointments. I was just wondering if we could waive the rules and do the vote now. Then we could line up new business.

The Chair: Mr Waters has made a request that we can accommodate if we have unanimous consent to concur with the intended appointments. Do we have unanimous consent to move on that today? Do we have a motion? I require a motion to concur.

Mr Waters: I so move.

Mr Stockwell: We require unanimous agreement?

The Chair: Yes.

Mr Stockwell: No, I do not.

The Chair: We require unanimous consent.

Okay, before we adjourn, I want to advise members of—

Mr Silipo: I am sorry, Mr Chair, but even though there is not consent, can I just ask: Do you wish to have the matter dealt with next week as we had scheduled or do we deal with it today?

Mr Stockwell: Yes, in the normal process.

Mr Silipo: Okay, fine.

The Chair: The subcommittee met this week to discuss the question of additional sitting time, and where there was no consensus between the three parties, the decision was made to, if you will, throw it back in the laps of the House leaders and whips. It is the feeling that if the government feels that the added sitting time of this committee is necessary to fulfil the expanded mandate, they are going to find some way to accommodate the wishes of all three parties. So we really placed the matter back in their hands and hopefully they will be able to accommodate all of us within the next week or two.

Anything additional before we adjourn? Meeting adjourned.

The committee adjourned at 1029.

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Appointments review process

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Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 3 avril 1991

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Procédé de révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 3 April 1991

The committee met at 1009 in room 228.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

The Chair: Before we start on the agenda, I just want to put on the record a response to a question raised by Mr Grandmaître that dealt with the timing of the government's placement of books, binders, however you wish to describe them, outlining the appointments that are going to be available, the per diems, the time involved, etc.

The clerk has been advised that it is going to occur. Hopefully the government's timetable is 1 May that it will have those in public libraries and constituency offices. Mr Grandmaître raises the question of municipal offices. I do not know if any member of the government side recalls that being discussed. I do not.

Mrs Haslam: I do not think so.

Mr Waters: I do not believe it was.

Mr Silipo: What does Mr Grandmaître mean in terms of municipal offices? City halls, town halls?

The Chair: Yes.

Mr Grandmaître: Wherever people meet. Hopefully when they attend at councils.

Interjection: We could pass that suggestion on. I do not see that it should cause any great problems.

The Chair: The committee can formally pass that on as a suggestion that arose.

Mrs Haslam: They can examine this to see if it is possible.

Mr Waters: That was where we were talking about constituency offices and that was to expand on it.

Interjection: So the date is 1 May.

The Chair: That is right.

Mr Waters: That is the expected date.

Mr Grandmaître: Is that 1991 or 1992?

Mrs Haslam: I think 1996.

Mr Silipo: It is 1991 for the first edition.

Mr Grandmaître: Oh, I see, the amended edition, June 1998 or something like that.

The Chair: We have one hour allocated if we wish to utilize the one hour to determine whether or not the committee concurs in the intended appointments that we reviewed last week. Perhaps we could get a motion on the floor and then discuss the motion. We have to deal with these on an individual basis. I think they were all appointments to the Environmental Appeal Board. I guess we should do them on an individual basis.

Mrs Haslam moves that the committee concur in the appointment of Dr Leonard Gertler to the Environmental Appeal Board.

Mr McGuinty: I am going to concur in his appointment as well as in the two others.

I just wanted to take the opportunity to recognize something which probably happens fairly regularly but which is infrequently drawn to our attention. I was pleasantly surprised when I was asking a question of one of the prospective appointees here, a prospective member of the Environmental Appeal Board, and I learned, only happenstance, that these three gentlemen were in fact volunteering to work for the Environmental Appeal Board. It is my understanding they are under no legal obligation to do so.

I also learned that the chairman of the Environmental Assessment Board had offered up these two gentlemen to work on the appeal board. Often, we derive the impression from media reports and news gathered in other ways that the golden rule in a bureaucracy is that you never give up bodies and you never give up dollars. I just wanted to put it on the record that these are shining examples of something to the contrary and they should be recognized for that. I did not take the opportunity to do so when they were here, but I want to commend them for that.

Motion agreed to.

Mrs Haslam: Could I ask a question? We suggested that we had lots of time after interviewing these people, that those of us who had interviewed them were there. Why did we not vote right away? I believe it was Mr Stockwell who said no, he did not want to do that. I assumed that he would have had some objections, and there were not any. Why did we wait a whole week just to come and vote?

The Chair: I am not going to allow that kind of a discussion to take place. You can have that discussion afterwards with Mr Stockwell if you wish. We have a pretty full agenda and any member has the right to do that in respect to the fact that we are required to have unanimous consent if we want to deviate from the rules, and we did not get unanimous consent.

Mr Stockwell: It was unanimous consent to vote in favour.

The Chair: No, it was unanimous consent to deal with the matter. I do not want to get into that right now.

Mr Grandmaître moves that the committee concur in the appointment of Alan Levy to the Environmental Appeal Board.

Motion agreed to.

The Chair: Mr Silipo moves that the committee concur in the appointment of James Robb to the Environmental Appeal Board.

Motion agreed to.

The Chair: That is that. We will move on to the next item of discussion on the agenda and at my request the clerk has prepared a memo which will hopefully assist us in this discussion. I guess David Pond has also prepared some material. I do not know if anyone has had an opportunity to review it; hopefully you have. I asked Doug to do this so that we would not be flying all over the map in respect to our discussion today and we might have something to guide us through this so that hopefully we can meet the deadline set down by the House in respect to reporting back on a permanent standing order. As you see by the approach that Doug is suggesting, that we review the temporary standing order on a line-by-line and word-by-word basis, perhaps we should initially discuss what Doug, the clerk, is suggesting and then see if we have consent to that approach. Does anybody have any difficulty with the approach the clerk is suggesting? Perhaps you do not even have it in your hands yet.

Mr McLean: This one from David Pond.

Mr Pond: You should have another one, sir, from Doug.

The Chair: One is from the clerk.

Mr Pond: Yes, that is the other one.

The Chair: Does everyone have a copy of the temporary standing order? Okay, so we are going to do this on a line-by-line basis. I will need one too, Doug. Perhaps we can begin then dealing with the terms of reference in 1. Can we have some discussion on 1? Any difficulty with 1?

Mr Silipo: I am sorry, Mr Chair. Are we agreed as to which of the approaches you were going to take?

The Chair: I asked if there was any concern in respect to the approach outlined by the clerk, which was initially the—

Mr Silipo: Are there not in fact two different approaches suggested there? One is to go through the document, through the terms of reference line by line, and the other is to just deal with general themes.

The Chair: Yes.

Mr Silipo: I was going to suggest that it might be more useful to start with that second approach and deal with any particular area. Then I think that the issues outlined in the rest of the memorandum from the clerk are a useful guide to us in terms of the various parts that we would need to deal with, the meeting time, a process notice, etc. There may be other issues that we want to add to that list, but it seems to me that covers certainly a number of the areas of concern that have been raised in the discussions today.

Mr McLean: Then delegate the responsibility back to the subcommittee.

Mr Silipo: Sure, yes, I would suggest that. But if members of the committee feel that they want to then have discussion continue in detail back here at the committee, I am comfortable with that as well.

1020

The Chair: How does everyone else feel about that?

Mr Grandmaître: How long would it take us to go through the terms of reference one by one?

The Chair: Who can predict?

Mr Waters: I do not know. It just depends on how much they want to change.

Mr Bradley: Big changes.

Mr Stockwell: Probably an hour debate on how we want to go through it.

Mr McGuinty: I was going to suggest that we use the second approach advocated by the clerk. Once we have finished taking that approach, if some of us felt that we should pursue it to greater depth by using the first recommended approach, we could consider that at that point.

The Chair: I guess we have a consensus on that. Some division within the Liberal reins.

Mr Grandmaître: I am sure we will get back.

The Chair: Okay then, we will get back. Who would like to start off with the general discussion talking about the particular concerns?

Mr Waters: I have had some discussions actually with people from our caucus over the last week or so. One of the things we have had a problem with is, because everyone is busy, they are substitutes. When we are dealing with appointees, it is time to have the same person there to vote as actually sat in on the interview.

One of the suggestions that we have come up with is that instead of adjourning at the end of the interview, we recess that part for the week, then reconvene both or have our discussion, then adjourn and go on with the rest of the business of that second day. I just filled that out for discussion on that aspect of trying to clean this thing up, because there are a lot of different things out there that we have heard, that people are having problems with, and one is that.

The Chair: Can you clarify that for me? So we finish today, after interviewing people; we recess—

Mr Waters: Recess instead of adjourn.

The Chair: What does that accomplish?

Mr Waters: On day two, instead of having to have substitutes in all day because there are two votes, that allows you to have the same people back in to deal with that particular topic. Then, if there was a substitute in and the regular committee member is available, that person can then take over afterwards in his full rights.

In the workings of the Legislature, I do not even know whether that is allowed. It is just an idea to try to accommodate it because there has been a problem where—and I think all sides are faced with substitution—you have had one person come in through the hearing, through the interviews, and then day two, a week later, you have someone else making the decision on it. I know that there has been a problem.

Mr McLean: But nobody is ever going to hold it down.

Mr Grandmaître: Let's be honest, would that make a big difference at the end of the day?

Mr Waters: It could.

Mr Grandmaître: Tell me, would it really change some of these votes?

Mr Waters: So far we have not been getting any directives to support or not support.

Mrs Haslam: It makes it difficult for a substitute to come in and vote for someone he has not interviewed.

Mr Grandmaître: Yes, but again, let's be honest. People appearing before us—it is a fait accompli. We have read it three or four days before in the newspapers that they have been appointed, so what is the difference between having the same three people vote on a fait accompli? We could have three different faces here sitting on different days and it would not make one iota—it is a fait accompli. I think we should be looking at the powers of this committee. I know what you are saying. It does not look good when three different people accept what three other people did not have a chance to vote on. But let's face it, we could have had 16 different faces day after day and it would not make a difference. These people would still be appointed.

Mr Wiseman: I do not believe that is the view that we take. You are assuming that at no time in the future will we ever turn somebody down. I do not think that is an assumption you can make.

Mr Grandmaître: The day that you vote against the Premier's appointment, you will not be sitting in that chair.

Mr Silipo: I wanted to say a couple of things. I disagree wholeheartedly with Mr Grandmaître. I think there has been a real effort on the part of the government members on this committee to try to make this process work as well as it can work. When the issue was raised, I think it was from one of the Conservative members, if I recall, about the fact that people were here voting who had not been here to interview, that pointed out to us a real problem in the process. I think Mr Waters's suggestion is an attempt to address that.

I do agree with Mr Grandmaître on the larger issue that perhaps what we should be doing as we open the discussion on the terms of reference, rather than start to get bogged down in some of the minor changes that we can make to the process that would improve it, is start by having some discussion around the general nature of the terms of reference. We have obviously heard from the opposition members time and again that what they would prefer is that this committee become not a review committee but an appointment committee.

I think we need to be clear with each other about what we are saying, because when people are saying at the end of an interview, "I may support or not support this particular individual but I don't have any way of assessing whether this person is the best person," it comes right back down to the very essence of what we are supposed to be doing. We may in the end continue to have a disagreement about that, about what our role as a committee is, but at least let's be clear about what the present role of it is. The present role of the committee is not to appoint people. The present role of this committee is to review the intended appointments.

If we want to have a debate or discussion about whether this committee should appoint people, let's have that discussion, let's resolve that issue and then let's go on from there. I am certainly disagreeing with Mr Grandmaître in terms of the implication that he draws that the government members simply come here to put up their hands. I can tell you that in some of the earlier reviews we have done, if there had been perhaps more discussion about some of those appointments—there were a few where I was actually wavering and I think some interesting things could have happened.

Having said that, though, I will just repeat and conclude by saying that maybe we should start by having the discussion about what this committee should be doing and put the procedures aside for a second, talk about that and then go from there.

The Chair: We have heard this debate take place since we have met and we have had this temporary standing order. I guess we have to go through it again. I guess in terms of trying to come up with some sort of report from the subcommittee, whether we can get a consensus report or not, is another thing to table. On reflection, I am wondering if we should not follow Mr Grandmaître's suggestion and maybe try to move through the terms of reference as quickly as we can. We only have an hour and a half this morning. Perhaps we will get into those kinds of discussions you are talking about, Mr Silipo, as we move along. I am just throwing this out for discussion because I think it might be more helpful to us than just getting into the same old harangues that we have had in the past.

Mr McGuinty: I am going to support you wholeheartedly on that, given the way this has evolved. Just now I think it would be more productive to go through with clause-by-clause.

1030

Mr Bradley: At the risk of disagreeing with my two colleagues, which can happen, just to show how independent we are over here, the problem with it is this: I think you have to decide overall what the role of the committee is going to be first. Then that will dictate how we are going to change this. If this committee becomes enlightened, for instance, and asks to have veto power over these, then this would change perhaps; if this committee were to be able to look at more than one applicant for a position, this would change then perhaps, and so on down the line.

That is why I think that, and it is not unlike what some of the members of the government side have said. Tony has said, for instance, that they perhaps want to decide overall what the role is going to be and once we have had that out, then we can decide what this is. However, you are the Chair and two or three Liberal members disagree with me, so—

The Chair: I agree with what you are saying, but I guess I am a pessimist having—

Mr Bradley: A "realist" is the word.

The Chair: —lived through this committee and others in the past. I do not think we are going to get that kind of agreement.

Mr Silipo: We may get some clarification.

Mr Stockwell: Mr Chairman, I think you are looking for consensus that just does not exist. You are searching for the Holy Grail and it is not going to happen.

Mr Wiseman: Who says the Holy Grail does not exist?

Mr Stockwell: That is a good point. Let's just say that it is a difficult task. Mr Silipo, I understand what you are saying, but I just consider it to be government pap. That is the party line and that is what they are paid to say and that is what they say. They look for consensus and they charge forward and hope that they can build this new forum in here to review appointments. I guess what we are looking for is what Mr Bradley has suggested, the veto power and so on, and I do not think the government people are going to agree with that. Beyond that, unless you get some kind of clout, it is really a colossal waste of time in my opinion. The members can suggest that they had some very serious and grave concerns about a few members, and gee, if they had more time to discuss it, they may even have voted against them. I will believe it when I see it.

Until we get to the point where I think there is a little bit of believability or a little bit of agreement that, yes, there could be someone turned down, then in my opinion we are working towards a consensus. It does not exist. Sometimes consensus does not exist. Sometimes you argue and debate and discuss and there just is not a middle ground. We are looking for something that is different from what you are looking for. We are looking for veto power; we are looking for a few people to come in on every appointment; we are looking to see a review process that includes more than one option; we are looking for a process where you people have a free right to vote and you can vote against an appointment by the government, which I have not seen. You claim it is going to happen but we have not seen it.

Whether you go by point by point or whether you go for the overall review or a global review, you want a consensus or to have some committee bonding or whatever the heck you want to call, I just think it is a colossal waste of time. You are going to have two dissenting points of view, the government side and our side. So take your pick. We are going to be here for an hour and a half; we are going to be no further ahead in the hour and a half than we were when we started.

Mr McLean: I have watched this process for some months. The government, when it makes its recommendations, picks the best person, it feels, for that position. We do not know who the other people are who have applied, but I am sure that when they make their recommendation, it is going to be a suitable recommendation that will be accepted. From the time that we have spent here reviewing them it has been an interesting process, but we really have not accomplished anything other than to concur that the people who have been appointed are acceptable. Until you change the structure of the committee and what the committee does, nothing is going to change. We are wasting thousands and thousands of dollars every year on these people and it is not changing anything.

The Chair: How about this? We will allot 10 minutes to each caucus and one spokesperson for each caucus to try to summarize what you would like to see this committee do and how you would like to see it structured and function, and then we can get on with the specifics. If one person can summarize it for each caucus, we will start off with Mr Silipo. Do you want to be spokesperson for the committee, or Mr Waters?

Mr Grandmaître: That is a good idea. Instead of an hour, we will only be wasting 30 minutes.

Mr Silipo: Sure, I would be happy with that.

Mrs Haslam: Make it five.

Mr Silipo: Yes, probably we could do it in less than 10 minutes.

I want to say at the beginning that I acknowledge that on this issue we may not have a consensus. I was not naïve enough to think that we may be able to get a consensus and that is not what I was suggesting in clarifying what it was that we saw as the role of the committee. There is very clearly a difference of opinion on this, from what has been said, and it may be that on the substance of what the committee is or should be there will not be a consensus. What there is out of two views of—on the one hand, our view of the committee needing to continue to be a review committee, a committee that reviews appointments and, on the other, the issue that the Conservative and Liberal members have that this should be, in effect, an appointment committee, and there may not be a way to bridge those two positions.

I think there are ways, however, of improving the process, even if the committee remains a review committee, which is certainly, from my perspective, what it should do. Mr Waters was beginning on that process. In terms of some of the basic principles, I think that it is incumbent, and it should continue to be incumbent, upon the government to make the appointments to the various agencies, boards and commissions, because those appointments would then be subject to this public review process. That in and of itself places a stronger onus on the government, whether it is the Premier's office or whether it is the minister's, in putting together its intended appointments to be absolutely clear that it has chosen the best person for the position. Because, unlike in the past, those individuals will in most cases be asked to come before the committee and to answer publicly as to their knowledge of the job that they are going to go into and as to their qualifications with respect to that job. The simple fact of our existence as a committee, whether we agree or not with all the fine details of the process, that scrutiny ensures that in fact there is a high degree of seriousness placed on the appointments that are made.

When it comes to the issue of what the committee will do, again I think that it has been pointed out that the members of the government come to this committee very clearly looking at the individuals who are before us. It has not yet happened, as people have said, that we have voted against any appointments, but that may happen. In that sense, what also may happen, quite frankly, is that people on the government side may also disagree among themselves as to whether to support or not support a member. Then the issue compounds into the sort of question of what will happen if the committee, by majority vote or otherwise, were to vote against an intended appointment. It seems to me that while the government is not bound by that decision, it certainly would place a fairly strong onus on the minister's office or the Premier's office, as the case may be, to look

seriously at the committee's recommendation which, according to the rules, becomes the Legislature's recommendation, as I understand the rules, or position. And while that does not give us a veto, it certainly makes it clear that as a group of people that has reviewed that appointment and found the person wanting, then it would seem to me incumbent in that kind of situation for the government to take another look at that intended appointment and possibly suggest someone else.

1040

I could go on and on, but I think I will stop because it seems to me that in terms of the issue, the committee should continue to be a review committee and not become an appointment committee. To get into the whole process of interviewing—it is such a major shift in the process of appointments that I am not sure it accomplishes a great deal. But I guess I have to say, and I will be very honest about it, that I think the fundamental reason why I would disagree with the committee shifting to an appointment committee is because I do believe that should remain within the purview of the minister's and the Premier's offices. I think that is something I can defend. That is something that is quite legitimate, in my view, and that is something that still makes the review process useful.

I think that one of the things, quite frankly, we ought to start to also look at is the way in which we choose people to interview, because it seems to me, from looking back on the ones that I have been involved in, there were a number that we picked to review basically because we felt like we had to. I do not think that we should get ourselves into that position. If on the list of people that is before the subcommittee we really do not think that we have any objections to those appointments, well, we should be able to simply let them go through without parading people here just for the sake of doing it. Doing that, it seems to me, makes more of a mockery out of the process than simply saying, "Well, out of this list, we think that these are fine and therefore they should just proceed." So I think that is another aspect of it that we can do internally that also would add some more credibility to the process.

But short of those kinds of changes, and there may be a number of others, I am sure that if we go through the terms of reference item by item we certainly can agree to change. I think that in terms of the essence of the committee, certainly from our perspective it should remain a review committee.

Mr Bradley: I think if the government agencies committee is to have any real power, if it is to be a departure from what has happened in the past, the first thing it must have is the power to block any appointments. In other words, the committee should have veto power over the appointments of the government. It does not have that. It is not a significant departure from what has existed in the past. What we have had this portrayed as by the Premier, in my view, is a radical departure from what has been the practice in the province, when it is not.

So if we want that radical departure, if we want to take out the appearance, if not the substance, of patronage appointments and of partisan patronage appointments, then I think the committee has to be vested with the power to veto, so that if the committee turns down any particular applicant or proposed applicant, that applicant is not then proceeded with by the government in terms of an order-in-council appointment.

Second, I think that if we are to play a significant role, we would have to have the power to look at more than one person proposed for a position for appointment. If there is just the one person, it is very difficult to say that that person is the best. Mind you, if you had the veto power, that makes that less important. When I mention these, some are contingent upon the veto power. If you had veto power as a committee, then I suppose the government's proposing one person becomes more acceptable because then the government has to propose someone else. If they are not going to give a veto, it would be helpful and wide open if it were to propose a few people for a position and the committee could then make a recommendation.

This is a radical departure, but it has happened probably before in some cases, and that again is that if this committee is supposed to be a non-partisan committee, then the government should give consideration to equal representation of the three parties; at the very least, equal representation of the government and opposition on the committee. There was a suggestion made by Mr Harris when the select committee on Ontario in Confederation was established that if we were to see that as a non-partisan effort, it should have equal representation from the three recognized parties in the Ontario Legislature. That was rejected by the Premier. Again, it could be advanced in this committee that we could have equal representation.

Also, I think the committee should have the power to review reappointments to various agencies, boards and commissions, not simply the appointments. Perhaps a person's performance in that position has been such that members of the committee would feel the person should not be reappointed. In this case I would think, for instance, the government members would be particularly interested in that because some of the reappointments may be appointments made by previous Conservative and Liberal governments that members of this committee do not feel are appropriate. They are the kind of appointments that just kind of happen because people are in a hurry or because the Ontario federation of something says that person should be appointed, so the government kind of says, "Well, if they say it, I guess it should be," or, "There's going to be a rebellion somewhere if you don't appoint somebody." Let me tell you, that does happen. So I think being able to review those reappointments would be useful to this committee.

I think that all OIC appointments should be eligible for review by this committee. My understanding is that the government is looking at some that it may remove from the category of order in council. It used to be OPP officers or something that you had to appoint, which seemed nonsensical for the cabinet to be doing those. There may be a legal reason for that. I do not know what that legal reason would be, but that is the kind of thing that we could have.

Another concern that we have is the amount of time, the time frame, for looking at the candidates and finding out about the candidates. There seems to be a rather brief

period of time. Again, I recognize that governments want to move quickly to fill those appointments. However, it seems to me that this committee, if it is to fulfil its responsibility, must have more time to be able to do so.

We do not now have the right to call witnesses or ask for written submissions about the candidate. I understand the queasiness of people with that. I note the federal government does have that, and there was a feeling by some that, well, you do that, so how does a person defend herself or himself? If somebody sends in a letter saying that this person is a rat and listing things about the person, perhaps even personal things about the person, or if somebody appears before the committee and makes some charges against the person, how does that person reply, and does that in fact discourage anybody from coming forward? So I understand those arguments, but if you are going to have the closest of scrutiny of the proposed candidates for any particular position, then I think you would have to entertain other witnesses coming before the committee to say why that person would be not useful or useful. So you may have a cheerleader here or you may have a detractor here and/or you could have written comments to the committee.

The Chair or the committee or the subcommittee might be in a position to decide whether in fact some of that information may be in camera. That is something the legal people would have to determine. Ethically we would have to determine what is in camera and what is not. There may be instances where things are brought to light that may have no basis in fact, and the committee in camera may want to look at those particular comments.

So I think we really are in that position as the official opposition of saying that those would be the bases upon which we would think we would like to see this committee work.

The Vice-Chair: If we are going to allow 10 minutes to each party, we are way over on your party.

Mr Bradley: Oh, okay. That is fine. I am sorry. I did not know I took that long.

The Vice-Chair: If Stockwell wants to take over now, then we will leave the decision to—

Mr Bradley: My last comment, as I say my last sentence, is that there is a great concern that many members read about these appointments in the media before they come to us.

The Vice-Chair: Mr Stockwell, did you have any comments that you wanted to make?

1050

Mr Stockwell: The difficulty is that this was sold to us at the time by the Premier as some process that would alleviate or stop the patronage appointment. That is the way it was sold to the media and the people, and I at least go back to the way it was sold. I guess that is where my difficulty with this whole process starts. If that was the sense of what this committee was going to do and if this was the thought that went into striking this committee, to review these appointments, then it is frankly a colossal failure. It is not doing that. To sell it that way is insulting, I think, to the people and to the opposition parties. If it were not so sanctimoniously announced that, "We are clean; we are aboveboard; we are better than Conservatives and Liberals because we're going to strike a committee to review appointments," then it would not bother me so much to sit through this and do what I consider to be a waste of time.

It was sold in that way and now we are sitting here going through a process, when not a single member of the government has voted against any applicant, any appointment. It is a committee that is totally stacked in favour of the government. There is not a vote you can lose if party solidarity holds true. We are asked to sit here and, I suppose, lend legitimacy to this process, and that is the great difficulty I have with this. I spoke to it in the House. I think our caucus agrees that we are lending credibility to this committee when there is not any to be had.

Now, I would be fully in favour of those recommendations put forward by the Liberals where we have veto power or we have the right to interview more than one applicant and so on and so forth. If it is not going to happen, I think we should save the taxpayers a tremendous amount of money and cancel this charade and allow the Premier to do what every other Premier has done and make the appointments as orders in council and then let him stand or fall on his own two feet. We would not review the process, which makes sense to me simply because no one is getting turned down, and you would not have the ability to stand up and pretend that you are better than any other previous government because you have this travelling road show here that is supposed to comment on appointments that you never turn down.

So in my opinion, and I believe our caucus's opinion unless you are going to give this committee some power, unless you are going to allow it to have the veto right, unless you are going to allow it to request that it be allowed to interview more than one applicant, unless you are going to allow those kind of things to take place, then by our participation we are only lending credibility to the charade.

The comment was made earlier in the meeting, "How come we didn't approve these people right away?" Well, I am not going to do anything to speed this process up. I am not going to do anything to help you people continue this charade, because I see it as a charade, and by assisting you I am just assisting you in fooling the folks, pulling the wool over their eyes, and I do not believe this is helpful to the people. It is a colossal waste of taxpayers' money.

So if we are just going to sit here today and argue about the merits of this committee, my party's position is very clear. Unless or until you give this committee some real power, then we are simply showing up. We are going to put our hands up at the appropriate time. We are going to do what we have to do to point out this charade that we are going through, and all this talk about going through line by line or a full review, it matters not. It matters not, because you have created this charade and your party has sent the message out that you are cleaner and more aboveboard than any other elected official, and then you put this charade in place. I am not here to help you. I do not like the process, and I think the process is stacked, slanted and unfair, so I am here to point that out at every opportunity.

Mr Hayes: On a point of order, Mr Chairman: You know, we talk about "let's try not to be political" and all

these kind of nice things here and "try to work together," and yet you hear members who sit here and talk about, first of all, equal representation. The only time I am aware of equal representation on any of the government committees, including the past ones, is if there was a minority government and probably when we had the accord. Even when we had the accord, the government had the majority of the members on there.

The Chair: That is not a point of order, but I am going to allow you to get it on the record. Go ahead.

Mr Hayes: Okay. I wanted to make something here. I know that Mr Stockwell mentioned about the review. Yes, that is what Bob Rae did say, a review, and that is what we are doing there. But the other thing is that I get a little bit perturbed when I sit here and listen to members call this thing a farce and at the same time they have sat on this committee and voted for people who they want on their committee because the people are not affiliated with the New Democratic Party, and then when they do not like the person who we want to appoint, they call this a farce. That has happened on this committee, where we have had people walk out and call it a farce after they voted for the people who they wanted, and I think that is quite hypocritical.

The Chair: This is not productive at all. Mr Wiseman, I hope it is not more of the same.

Mr Wiseman: I think that when we were first starting this process, we had some representations here that were very interesting. I cannot remember the name of the personnel firm that came in and did the seminar, the very first group.

The Chair: Stevenson Kellogg?

Mr Wiseman: Yes. Then we had Felix Holtmann, who came and made some interesting conversation and comments about the process. I think it would be interesting to review that information from the point of view of looking at it now that we have gone through the process for a period of time, and to come back and take a look at what they had to say about process and what they felt might be useful to come out of this process. If I remember correctly, Mr Holtmann had some good points about this committee and had some ideas about what is possible and what is not possible. I do not have that information handy with me, but perhaps we could ask the research officer to dig up the Hansards from those and we could maybe have a review of that and go down a road that might come up with something more beneficial than sitting here throwing mud at one another.

The Chair: In my observations of this—and I could be wrong and open to criticism on this—it strikes me that what has transpired here today and what has occurred in the past indicates pretty clearly that from the perspective of the opposition parties, any change to the standing order is going to have to include some pretty dramatic changes in respect to either having a veto power or equal representation of opposition members and government members on this committee. That seems to be the key element, if you will, in terms of how the opposition members have voiced their concerns. I think that covers it primarily. You get into all the other nitty-gritty things about how the OIC comes to us and those sorts of things, the workings of the committee, but I think that is the basic problem, if you will.

If we cannot overcome that, I am not sure that we are going to spend a lot of productive time in terms of going over all of the specifics of whether we need one committee or two committees. I guess we can, but what I am suggesting here, throwing this open for discussion, is that we have a number of issues that have been raised by the clerk and by our research officer, matters that have come to our attention over the past period of time. We also have the material Mr Wiseman has appropriately brought to our attention again and reminded us of, and I am wondering if it may not be more appropriate for the various caucuses to try and come back with specific proposals on how they would like to see this new standing order worded and structured. I am just wondering whether we are going to have anything fruitful occur here today. We have already had the positions outlined in essence. I am just wondering if that may not be a more expeditious way to proceed.

Mr McGuinty: With reference to Mr Wiseman's point, I do not think we should be trying to reinvent the wheel here. The Macaulay report has some significant bearing on what this committee should be doing, and that is the most recent report. It is a thorough and thoughtful report. One of the key areas it dealt with was agency appointments. According to Macaulay, this could best be achieved by—I am just reading from a statement here—opening up the pre-appointment process, ie, advertising for and screening potential candidates, as he did not feel that an open process can be accomplished by means of a legislative committee system, as proposed by the standing committee on the Legislative Assembly.

He made specific recommendations, and one of those was that a council for administrative agencies should be created to seek out, interview and assess potential candidates. It may be that, given the practicalities, it is beyond the realm of this committee to deal with specific interviews and that end of it. But there should be some other independent body between the government and this committee which is ensuring that the people of Ontario are getting the best person for the job. I have no confidence that that is being done right now. This is a proposed solution from an independent source.

1100

Mr McLean: On much the same line as what Mr McGuinty said, the fact is that I was wondering if there was somebody, the author of the Macaulay report or somebody, a designate, who could appear before the committee, having now known what we have done, and give us some comments on whether it has been fruitful or whether there should be some changes.

Mrs Haslam: We already did this.

The Chair: We had a gentleman appear before us who was a counsel of the Macaulay commission and we have had some discussions with Mr Macaulay himself and on a couple of occasions he has indicated a willingness to appear before us, but I am not sure.

Mr Silipo: If the committee members want to bring someone back or bring somebody to help us through with

this, I am certainly not going to object, although I am not sure that we can bring anybody from the outside to tell us what we should be doing with this. I think it is really a decision that we as a committee need to make.

I have to say, having listened to some of the comments, particularly from Mr Bradley, that there are actually at least a couple of what I hope are major points that he made that certainly personally I would agree with. I think that therefore, while the positions may still be far apart, there are still some areas. I, for example, think that it would be useful for us to look at the whole area of having the ability to review reappointments. I think that is an area that certainly strikes a sympathetic chord with me. It is something that I would want to think a little bit about and certainly would want to talk with my caucus members here a little bit more about. It seems to me that is an area that is worth our while taking a look at.

The question of whether we should have witnesses or the whole area of whether we should get information to the committee members by other people about the intended appointments is an area that I have some hesitation about. As I indicated on one of the appointments, it did not really matter to me what somebody else's opinion might be. But having said that, there may be some kind of information that it might be useful to look at getting from other people.

We have to be quite careful about how that was structured in terms of protecting the rights of the intended appointee, and certainly whatever we put in place would have to ensure that the person was made fully aware of any information that was provided to the committee members and had an opportunity to rebut that information. Although I have some hesitation about how to do it, I would be quite open to our taking a look at that in some more detail and seeing if there in fact was any way to accommodate both kinds of needs.

On the question of veto power of the committee versus equal representation, I guess I still make the point that it seems to me that although it is not written as clearly as people would like it in the standing order, I could almost make the argument that the committee does have a veto power already. I would be hesitant to think that the government would proceed with an intended appointment if this committee were to turn down someone who appeared before us. In that sense it seems to me that we already have that veto. Again, it is something that I am not prepared to accept at this point in time, but I certainly would want to think a little bit more about that.

If something like that were to deal with some of the major objections that people have to the process, it seems to me that we are not as far apart on some of those issues as might seem. So maybe it has not been that useless a process.

The Chair: Time will tell. I am trying to perhaps oversimplify this, but we are talking about retention of the committee as a review committee with a number of significant changes, or a committee with a veto right or equal representation, or we are talking about what Macaulay and Mr McGuinty talked about there, taking it outside the Legislature and having some sort of independent body involved in this review process, sort of middlemen/women, if you will.

I still would like to throw out the possibility of each caucus taking upon itself the responsibility of coming up with a firm proposal, whether it is an endorsement of the Macaulay proposal or whether it is a committee with a veto power and a number of other changes that you see are required, or a review process with the other significant changes that you should take.

Mr Silipo: I agree with you, because I do not think that at this point we are going to get much further.

The Chair: That way we could have three firm proposals on the table before the committee which we can all discuss, at least three firm proposals, and discuss them and the merits. We may have a number of alternatives. Could we agree on that, that all will sit down? Is it possible to have something for next week? Do we see a problem with that?

Mr Stockwell: Not at all.

The Chair: So at least we can circulate the proposals. If we can have them prepared in written form and turned into the clerk, we will circulate all three to various members of the committee. Doug will be calling the subcommittee members representing their caucuses to remind you perhaps midweek or early next week that we are looking for that document. Could we leave it at that today then?

Mr Stockwell: Good job, Mr Chairman.

The committee adjourned at 1107.

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Wednesday 17 April 1991

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Le mercredi 17 avril 1991

Standing committee on government agencies

Appointments review process

Appointments review

Comité permanent des organismes gouvernementaux

Procédé de révision
des nominations

Révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 17 April 1991

The committee met at 0935 in room 228.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

The Chair: The first item on the agenda this morning is the report of the business of the subcommittee, that was circulated to all members. There was one matter left off which I would like to bring to the attention of members of the committee since Mr Stockwell is not here. He wanted to indicate item 3, that, "We as a subcommittee waive the right to review the following intended appointments." From time to time we are going to see that occur, when simply because of the pressures of time or other reasons, members of the subcommittee decide they simply do not want to review intended appointments such as the ones listed under 3. Mr Stockwell wanted it to be clearly on the record that that in no way indicates his support of those intended appointments. In fact, he is opposed to each and every appointment coming forward under this process and he wanted that to be clearly put on the record. Since he is not here at this time, I am doing it for him.

Mr Silipo: He will undoubtedly do that from time to time.

The Chair: He will remind us, I am sure.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

GREG BURNS

The Chair: The governing party has selected the first nominee for review, Greg Burns.

Mr Burns, would you like to come forward please. Welcome to the committee. Would you like to say anything before we begin the question and answer part of the interview?

Mr Burns: I do not think so, not at this time.

The Chair: All right. This is a government party selection and we will begin the questioning with the government party.

Mr Silipo: Mr Burns, I do not know if you have had a chance to take a look at the recent regulations with respect to employment equity or follow any of the information around those. It is clearly going to be an area in which the various police forces, as well as presumably the police services commissions, will be involved. Could you comment on the employment equity provisions in general or any particular way that you wish to?

Mr Burns: Certainly. I guess my overall comment be that I would fully support it. Having been in the public service myself for 18½ years in municipal life, I think any public service, and particularly a police force, should reflect both the cultural and racial diversity in any community. I have had an opportunity to review very briefly that particular report and I think it is a good report. I think it is good legislation. I think it is time that this kind of thing came into vogue.

Mr Silipo: That is all.

The Chair: Anything further from the members of the governing party?

Mr Wiseman: I have got a couple of questions. You are to be appointed to the police services board. From looking at your résumé, most of your experience is outside the policing area. Is that correct?

Mr Burns: That is correct.

Mr Wiseman: Have you looked at any of the duties that you might be having in your new capacity?

Mr Burns: Yes, I have. I think one of the reasons why I applied for this particular position—and I think you may be able to see it from the kinds of work that I have done in my community—is I have a very strong background in committee work, locally, provincially and internationally. I have excellent negotiation skills. I have been involved with various contracts at the municipal level from a management point of view. As a negotiator and problem solver within the teams that I have had the opportunity to work with, I think I have skills in that particular area. I am a good listener and I think the fact that I do not carry with me any specific or special interest group allows me to come to this particular board with no pre-set bias or axe to grind.

The reason I applied for this particular position was I like to be involved with my community. I love my community. My wife and I have both made contributions to that community and I now have time in my new role as a faculty member at Conestoga College that I can get involved with different kinds of work like that.

Mr Wiseman: We seem to be going into an interesting time for policing. The makeup of our society is changing and community needs are changing. Have you had any chance to look at what might be the problems that your skills could help ameliorate in your area?

Mr Burns: I am very familiar with the community. I think I have a fairly good idea of some of the problems, or should I say some of the social issues, such as vandalism and that kind of thing, particularly in relation to my former position. I think as well I am fairly well known in the community, so people could use me as a sounding board for any concerns or issues related to the operation of the police force.

I think one of the specific issues, which has been dealt with most recently with the new legislation on employment equity, is the whole relationship that the police force has with a given community, that it should more reflect who lives in that community. I think in terms of the community that I live

in, Cambridge. We have 16,000 Portuguese who live in that community, and a number of those people do not speak English. I think we should be reaching out to people like that, so that they can see that their police force, in essence, reflects their particular community as well. I think that is one of the major issues that any public service, but particularly a police force, has to deal with.

Mr Wiseman: As a person who has been involved with a lot of recreational activities, it would seem—I am just going to speculate for a moment—that when you are involved with young people on a continuous basis, there are a lot of service groups that you participate in and the police force is one of those groups that takes an active role in these service groups.

Mr Burns: Certainly.

Mr Wiseman: Have you had a lot of contact with police on the beat or at other levels in your other capacity?

Mr Burns: Yes. In my position of director of recreation I had a fair amount of contact with the local police department. Myself and staff members within our department worked with them and met with them on a monthly basis to look at issues as far-ranging as vandalism to patrolling, looking at some of the major concerns that we have relative to some of the high points of vandalism within our particular community. So I think I have a fairly good idea of how they operate, particularly in, let's say, the enforcement side of it.

Mr Wiseman: I just want to pursue that. It is interesting because you indicated that you have actually worked with them in attempting to put programs together. Is that true?

Mr Burns: Not necessarily programs, but basically working with other agencies, whether it be the board of education or, in my case, the city of Cambridge, or issues related to our parks and facilities. We would meet with them on a monthly basis just to review some of the high-incidence areas that we were dealing with. Certainly we have been supportive in the past related to any kind of programs that they have wanted to reach out to the community. We have made our community facilities—arenas, pools, any of those facilities, community centres, senior citizen drop-in centres—available for posters, community awareness types of programs.

Mr Wiseman: Do you see this new position as allowing you to expand on that? Is that one of the reasons that you really wanted this?

Mr Burns: Well, there are a number of reasons why I was interested in this. I will relate directly to the recreation area because it has facilities in community centres that are available for this kind of thing. I know all of the people within the Waterloo region. I think that if we were to encourage, as I think I would want to, community policing, it would be reaching out to the community through those particular facilities. They are a marvellous way of reaching a lot of young people particularly because it is the young kids who come into those facilities.

Mr Grandmaître: Mr Burns, going back to employment equity—and I believe in employment equity—what would be the breakdown of the population in Waterloo as far as ethnic groups or minorities?

Mr Burns: Percentage-wise, or are you just talking in general terms?

Mr Grandmaître: Percentage-wise.

Mr Burns: I could not tell you percentage-wise. There are large segments of Portuguese and German people in particular. Those would be two that stand out as far as ethnic groups are concerned.

Mr Grandmaître: At the present time, does the Waterloo force reflect or represent the diversity of Waterloo?

Mr Burns: In my personal opinion, no, I do not think so at this point in time.

Mr Grandmaître: Would you know if the police chief or the existing board has made any attempt to rectify the situation?

Mr Burns: I am not sure if they have made any direct attempt. I know that has been discussed and is an ongoing concern of theirs. I know that with the new employment equity legislation there is a time line on that and it is one of the reasons why I am looking forward to that particular challenge, working with the chief and the other members of the board to ensure that that particular plan comes into place on time.

Mr Grandmaître: Knowing your community as well as you do, do you think it will be difficult for them to meet the famous hiring quotas that everybody is talking about? Do you think it will be difficult for your region to meet that requirement?

Mr Burns: It will probably be difficult for a lot of the forces. I think there are some people who have deeply entrenched feelings about what a police force should be, but I do not think it is something that is insurmountable by any stretch of the imagination. I think it is something that can be worked on. I think it is going to be difficult but I think that it is very possible.

Mr Grandmaître: I know there is no deadline to meet the requirement of the employment equity policy. It would mean that possibly they would have to go outside your region to meet the criteria.

Mr Burns: That is a strong possibility.

Mr Grandmaître: Do you believe that at least 50% of your force should be female?

Mr Burns: I am not sure if it should be 50%. First of all, I think everything has to be on merit and, second, I think that if in fact, and I think it is fairly close, 49% or 50% of the people living within the community are female, that is a goal the board should shoot for. Certainly, police forces are fairly entrenched and male-dominated and I think that is one of the issues the present board is going to have to deal with. This board like many other boards is going to have to deal with it. But again, I do not think that is insurmountable.

Mr Grandmaître: Do you think that by eliminating some of the hiring barriers the quality of police officers will diminish in this province?

Mr Burns: No, I do not believe so. I think there are good training programs for police officers. Personally I have the strongest regard for men and women who serve for our particular region as well as across the province. If those who are presently within the force are given upgrading opportunities, I do not think that the level of policing will diminish by any means.

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Mr Grandmaître: Not that I do not believe in female policing, but I am just concerned about the types of crimes that are being committed across this province, not only in your region. I am not saying that we need 6'4" or 6'5" policemen or policewomen. I am not saying this, but do you not think we will be putting some of these people at risk?

Mr Burns: I do not believe there is any difference between the job that a man or a woman can do whatever that job happens to be, whether it is a police officer, whether it happens to be a director of recreation or whether it happens to be a politician. I think everyone has capabilities. I would fear for anyone who puts his or her life on the line as every police officer does on a day-to-day basis. But I look at the fact that we have men and women serving this country, who have served this country most recently in the Gulf, and put their lives on the line every day. I am concerned for them but I am not concerned that we are putting people—I do not have a concern that women would be any less diligent or any less capable of doing that job than any man.

Mr Grandmaître: As a former police commissioner for eight years, we have always had a terrible time to meet our quota. We wanted to hire more female police officers and we had a terrible time. How will you convince females to join your police force?

Mr Burns: I guess the first thing I would comment on is that there has always been a stigma, from a woman's point of view, about being a police officer. I think the legislation that has just gone through is making a very strong statement to women in general but specifically to those who would want to become police cadets and police officers, that they have the support of their government.

At this point in time I think what we have to do as police services boards is to augment that particular position and encourage women through a public awareness program. Again, maybe because I happen to work at a community college—we have a law and security program—I think there is a very strong statement that has been made in the last couple of months related to women on police forces. I think they have needed that kind of encouragement and I think it is very, very positive.

Mr Grandmaître: Good.

Mr McGuinty: Mr Burns, I wonder if I might begin by asking you something about the process which led to your appearing before us here today. Did you submit a name at some point, or how did you end up applying?

Mr Burns: Sorry, submit my name?

Mr McGuinty: Yes, applying for this position.

Mr Burns: I read both the Kitchener-Waterloo Record and the Cambridge Reporter from cover to cover every day. There was an article related to Mr Bell's resignation, which said they were looking for a replacement. I saw what they were looking for, basically, in the newspaper, called the police department and asked for a better idea of what it was all about. I looked at the skills that were being requested. I thought I had those skills and submitted my application through the process outlined to me by the secretary at the Waterloo Region Police Force.

Mr McGuinty: One of the problems that I believe the Toronto police are facing, and I think it is identical to the one faced by police in my area, Ottawa, is retaining ethnic representation. How would you address that?

Mr Burns: Again, I would go back to the statement that has been made from the top, if you will. The recent legislation has come out and said, "This is where we stand and it's a very, very important issue to us as a government of Ontario." I think that is the kind of thing that will encourage many people who have sat back and wondered whether in fact it was a career to pursue. Another thing that needs to be done is a strong public awareness campaign to the community colleges that have law and security administration types of programs as we do at our particular college. I know it has been well received at our college, because a number of the female students in that program have now looked at this as an option. Maybe they would have gone into Pinkerton's security system but now they are looking at a career in policing, from a public point of view.

The recent legislation has made a very strong statement that has been really well received by people I have talked to.

Mr Carr: I was interested in your statement that you are not a member of any special interest group.

Mr Burns: That is correct.

Mr Carr: I take it that you have no political background or affiliation, whatever?

Mr Burns: No.

Mr Carr: You do not know the Solicitor General at all, then.

Mr Burns: I know the Solicitor General because Mr Farnan was a member of our council in Cambridge when I was director of recreation.

Mr Carr: So you would have known him through that and had dealings with him then. But you just applied on your own?

Mr Burns: I applied solely on my own.

Mr Carr: What do you see as the objectives over the next little while? Where are your priorities going to be?

Mr Burns: For policing in general, or for—

Mr Carr: For your position. What are you going to do? As soon as you get in, what is going to be your first priority?

Mr Burns: I guess the first priority would be the entire issue of the employee equity plan, because that is something that is going to be on the plate for the next year

or two, to ensure that is followed and meets the requirements of the province. I would suggest that probably is the biggest ticket item I would have to deal with, along with my colleagues on that board.

The other thing is the whole issue of community policing. I think there is a large percentage of the population who do have a lot of respect for our particular regional police force, but that is one of the roles I would like to play. It is a two-pronged thing, both from gaining the trust and confidence of the community at large for our particular police force, but also to indicate very visibly to the police officers and the police staff themselves that we support them. Maybe it is because I have been in that role before, working as a staff member in a municipality—it is nice to have a pat on the back once in a while from the people who are responsible for overseeing the operation.

Mr Carr: As a politician, I know it would be nice to get a pat on the back maybe once in a while. So the priorities, then, are really going to be set by the province with this quota. That is where you see yourself.

Mr Burns: I believe so, for at least the next little while; no question.

Mr Carr: I do not know if you are familiar with this, maybe as a result of some of the recreation work you are doing, but a very high percentage of our crime is related to the drug situation; the statistics say 80% of break-ins and so on. Have you thought how you, as somebody who could really make a dent in this particular problem, would tackle that issue? Have you given any thought to what you—

Mr Burns: Yes, I have. Number one, getting back to community policing, there presently is a strong emphasis on drug education, and our police officers and department are doing a fine job on that. I would like to see more support for that, and not just coming from our own police force but also in partnership with the other agencies in town.

Again, I will reflect back to our municipal operation. A tremendous amount can be done through our various programs, our various community centres, youth drop-in centres, the various neighbourhood associations throughout Waterloo region that the police department can work very closely with, in partnership, to resolve some of those problems. No question; it is something I am concerned about. I have an 18-year-old son, I have a 14-year-old daughter who constantly talk about how easy it is, if they were interested, to get drugs in their local school, as well as most schools in the region. It is a concern of my wife and me every day as to what is happening at that school. I do not have any concern about my own kids, other than some of the pressures they have to deal with. Working with the boards of education, getting right into the classrooms, working with the community college, that kind of process I think would work.

Mr Carr: Education certainly has helped, and I know the police in my area help them do a lot of work. What about enforcement? There are really three prongs to tackling the drug problem. One is education, which hopefully we are going to do more of through our schools. There is a treatment which was also part of enforcement, and to really tackle it we are going to have to be tougher in terms of enforcement. Have you thought how we are going to be able to crack down on the drug dealers, for example, in the school? How are the police going to ensure that the flow of drugs is stopped? Is there anything you can see us doing in that area?

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Mr Burns: I have not developed any particular strategy. One of my personal priorities, if I were successful, would be to meet with the chief and those particular individuals to determine what they are presently doing, because I am not really totally aware of exactly what they are doing behind the scenes. I know what they are doing out front relative to their awareness program, but I would like to find out more about what they are actually doing behind the scenes. I do not come here with any particular strategy, other than the fact of a very strong support for it and a very sincere concern about it.

Mr Carr: So that might be pushed to the top in the priority list.

Mr Burns: That would be a personal priority. The priorities I listed earlier were priorities I would see the police services board working on together as a team.

Mr Carr: After that, what are some of the other personal priorities?

Mr Burns: Having had a brother who was on the Metro force years ago as a constable, and recognizing morale problems—and I think there are going to be morale problems for the first little while, while this employment equity program kicks in and officers who have been around for a long time struggle with that and where they fit in related to promotions and so on. The police services board has to be aware of that and take a positive role with that particular issue. Again, that would be a personal approach, but I think it is something that, as a team, we are going to have to be very cognizant of.

Mr Carr: Have you given any thought to how you are going to use the resources more effectively? Even if you are Treasurer you are trying to balance how you can meet the demands versus the revenue. In policing it is no different; it is a big percentage of the budget and, as you know, taxpayers in the municipalities, seniors, cannot afford any more property taxes. Have you thought how you can take an overall approach and really take a look at the resources and make sure they are being used effectively, and set priorities and so on? You must have had to do that in your own recreation department. Have you formulated in your mind how you are going to do that?

Mr Burns: The first priority is to meet with the chief and get a much more in-depth idea of exactly what they do on a day-to-day basis, where they see their particular priorities. I would also like to talk to my colleagues on the police services board to see what, in fact, their particular visions are for the future.

My emphasis, coming from the background I come from, as well as the volunteer work I have done in the community, is on the whole issue of partnerships; for example, block

parents. I am proud to say my wife got a citation from the chief four or five years ago, because four or five houses down from us a group of kids were breaking in and were caught red-handed as a result of her telephone call. We had some fun and saluting her in the morning when that happened.

The community is part and parcel of the partnership with the police force; they themselves have a responsibility for their community. It is not just a matter of calling the police but helping the police in every respect. I see that as a lower priority at this particular moment, but it certainly will be a higher priority once I get into this: the whole issue of partnerships and getting people to realize that they are, in fact, part of the policing community.

Mr Carr: As critic for the Solicitor General I spent some time out riding with some of the police, both in Halton, which would probably be more similar to your area, and also in Metro, where it is completely different. One of the things the police tell me is exactly what you said, the tips that come in and so on are really the most effective. Quite frankly, in some areas that is the only way criminals are caught, that somebody tips them off.

Mr Burns: Absolutely.

Mr Carr: That is the fastest way. Is there any way, in light of the fact that your wife is part of that—and I think that is terrific—that you see expanding some of the Crime Stoppers and the TIPS programs so that we can really get more community involvement? I know we put advertising campaigns together, but is there anything you can really do?

Mr Burns: The promotional campaign is number one. Number two is to make sure that after promotion, these things are happening at the lowest levels; I am talking about public school, so that it becomes natural for kids to recognize that the officer who is wearing the uniform and the hat is not someone to be afraid of but someone to be respected and someone they can go to and speak to, whether it is, "I see something happening here in my school," and tipping the police or just a greater respect for the law.

I have heard in my position as director of recreation that many people who come to Canada see not only those of us who work in municipalities but particularly the police force as the army, as something to be very much feared. We have to spend a lot of time educating the youngest ones at the lowest levels that that is not true of Canada.

Mr Carr: Good luck.

Mr Burns: Thank you.

The Chair: The NDP generously left two minutes for the Chair to ask a question. You are a very strong supporter of the equity provisions that were just announced. I would like to ask you a question about the makeup of the police services board. How reflective of the community is the board currently?

Mr Burns: The existing board?

The Chair: Yes.

Mr Burns: In Waterloo region, you are talking about?

The Chair: That is right, the one you are going to sit on.

Mr Burns: We have a five-person board: two members who represent the elected bodies within the region and three members who are appointed at large. Mrs Donovan represents Joe Q. Public, as I would see myself. Judge Kirkpatrick is an individual who is very highly respected—

The Chair: I am talking about the handicapped, visible minorities. I find it strange that you are appearing here, a very strong supporter of the quota system—another white male, if you will, being appointed. I am just wondering what kind of message that sends. You are being so strongly supportive of these changes to the force, but you are also supporting, obviously, your own appointment, which does not recognize the concerns you have expressed and the government of the day has expressed.

Mr Burns: I fully recognize that, but I am speaking on my own behalf and I know where I stand on those particular issues; I know what my hiring practice has been in the past, related to the people I have employed, related to the groups I have supported, and I know I can speak very generously on their behalf.

The Chair: Thanks, Mr Burns. We appreciate your appearing here today.

Mr Burns: Thank you very much. I appreciate the opportunity.

MASSEY LOMBARDI

The Chair: The next intended appointee has been selected by the official opposition, Rev Massey Lombardi. Welcome to the committee, Rev Lombardi. Again, this is a half-hour review, and we will begin with the official opposition.

Mr McGuinty: Reverend, you are, I am sure, quite familiar with the employment equity legislation. Tell us generally of your feelings about that, please.

Father Lombardi: I am supportive of equity in the workplace. Specifically, the target groups the police force has been requested to look at have traditionally been at a disadvantage. It is not just one person saying that but a number: native people, women, the disabled. I sit on the government committee for the disabled; it is my second year. The disabled are very able people who, because of varying degrees of disability, have not had an equal opportunity to apply for a series of things that have happened for the disabled, and I think that is really important.

It seems to me that equity is an attempt to remedy that so that people who have traditionally been at a disadvantage in terms of jobs will be able to utilize their resources. They are rich resources which until now have not been fully used. I think that is very important so I am supportive of that.

Mr McGuinty: Let me ask you a question regarding women in policing. I want you to think now of the task a police officer would be called upon to play during the course of his or her shift. Is there any limitation you feel a woman might have in comparison to a man in terms of police work?

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Father Lombardi: I can think of a lot of limitations men would have in police work. With respect to my own experience, I think there are very few limitations. I think a woman who is properly trained can operate just as effectively as a man in that position. That question, I am sure, was asked of many women on the force. When you are talking about policing, the contribution women have made traditionally right across the board, on all levels of policing, whether it is RCMP, undercover work, spy work, all those things, women have done, I would suggest, very well, and I have not heard to the contrary.

Any limitations a woman would have would not be because she is a woman but because she does not have the talent, just as a man would not have the talent to do that. But if they are capable, I do not think there are any limitations at all.

Mr McGuinty: What if things get physical? You do not see any physical limitations? It is a scientific fact that men are, on the average, stronger than women. I think I would also have you recognize that there are some circumstances in the line of police work which call for things to get physical.

Father Lombardi: I would suggest also that the same is true of men, that police officers who are men have been beaten too. The question of physical prowess need not necessarily be the bottom line. I could suggest that there are situations where a woman, because of the very fact that she is a woman, probably could resolve a situation and not be physical in that sense. I think it depends on the circumstances. I think the same concern could be levelled at men. Male police officers get beaten up pretty good. If women are properly trained and have talent and utilize police procedures in a number of issues, I am really at a loss to figure in what circumstances they are not as good as men in any particular situation, if they have karate skills, if they have martial arts skills, if they have communications skills, all of those things that are needed for proper police work in those critical situations you are alluding to. Ask a woman who is in the force, and ask her if she cannot do the job. My guess is that she says she can or she would not be there.

Mr McGuinty: With respect to ethnic representation, maybe you could address the question I asked of the earlier witness; that is, the difficulty some police forces encounter in maintaining that representation. Particularly, would you go outside the community if you felt it was necessary in order to attract or obtain ethnic representation?

Father Lombardi: By virtue of the fact that those vacancies are open to all the public, I do not know what you mean by outside the community. Are we talking of outside Canada?

Mr McGuinty: Outside greater Toronto, for instance.

Father Lombardi: Well, if the person is living outside greater Toronto and submits an application for the police force, I would presume that all have the right to apply and to be interviewed and go through the process as laid out according to the Police Act and also the hiring practices of Metro police. I do not have any difficulty with that. You asked another question.

Mr McGuinty: How do you maintain the ethnic representation?

Father Lombardi: I do not know if the ethnic representation is significantly different than any other representation. If you see that a lot of the police officers who are not ethnic are going to other forces, I do not know exactly the reasons for it, but probably there are as many reasons as there are officers in the force.

With respect to ethnic representation, I think their concerns and sensitivity to their culture, the sensitivity in the workplace, the stresses on the workplace, what you would call a healthy workplace, a place where they can feel comfortable working, all of those things are part of the quality of life in the workplace both inside and outside the community. In my estimation, police have to be supported. They have to have the co-operation of the community and vice versa, because I do not think it is a question of policing.

If I could just expand your question, because you are asking a deeper question in terms of a specific city. The whole question of policing cannot take place in a vacuum. It has to be viewed in the milieu of the ethnic, multicultural, economic and political realities of the community. I think that how the community functions, its needs, its priorities and the needs and priorities of the police department, work together as a unit. I do not see them separate and apart if we are going to look at the question of prevention and law enforcement. It is a community trust and I think all those things have to be in place; when people in the community feel they are being accepted and they are trusted and there is mutual respect, I think it will go a long way for policing in general.

I think in the Metro area and Canada in general—I spent 10 years in the States, I worked the streets in the ghettos and it is a whole different milieu there—there is a whole respect for authority that I think we do not want in any way to devalue. The gentleman before me talked about the attitudes of the young. I think policing as a viable, important profession should be promoted and I think it is important from all ethnic perspectives, and that again starts with—

Mr McGuinty: I would like to conclude with one final question, then. What do you see as a reasonable schedule for implementation of employment equity in the Toronto police?

Father Lombardi: I do not know what you mean by reasonable schedule. I can only say that Metro, as I understand it, have already got a schedule in place and they have been working very diligently as far as I know around this whole question of hiring and fulfilling those target groups. I would want to look at that schedule with respect to how fast they are growing and what kind of projections they have. I think it is a question of the board working with the police department and trying to facilitate it as quickly as possible.

Mr Carr: I have a question for you regarding how you found out about the position. I know you have done a lot of work in your community. Is this something that you

searched out yourself or were you contacted by anybody to consider the position?

Father Lombardi: My first phone call was from the Premier's office telling me that my name had been submitted and would I consider letting my name stand. I said yes.

Mr Carr: So you were drafted, in other words.

Father Lombardi: I was surprised and a little trepidatious, you know. People were saying they did not know whether they should congratulate me, but I thought about it and I said, well, I have been involved in the area for a long time. A lot of people were surprised that it has been 17 years, roughly, in these areas and my resume will indicate that. It is just that I felt, as a responsible person, that I could not keep saying, "I shouldn't take it because it is difficult or there are some aggravations involved." That whole question, "Why didn't somebody do something," is always pushed on everybody's else's shoulders. So I said, I will try as best I can, use the resources that I have available and my experience for the safety of the community. So I said yes.

Mr Carr: You have said you are going to support Susan Eng as the chair, and I was wondering how the discussion went with the Premier. Did he say you could have the job as long as you support her? Maybe you could fill us in as to how that discussion went and how you remember it.

Father Lombardi: I guess I am in a kind of different position. I know everybody on the commission: Dennis Flynn, Alan Tonks, Lloyd Williams, over the years. When you are in the area of race relations and you are working in community development, those people constantly interact. So the question of who is on the committee and my respect for the commissioners—I have worked with all of them. As for the question of Susan Eng chairing, from my experience with her over the years, I do not see any problem with that.

Mr Carr: So the Premier did not say, "This is the condition."

Father Lombardi: That was never brought up.

Mr Carr: But you are going to support her? Have you made that decision already?

1020

Father Lombardi: Yes. I think whatever misgivings other people have, that has not been my experience. I can only go from my experience, not somebody else's. All chairs get their strengths and their weaknesses from the people around them. All of you have known chairs of boards—

Mr Carr: We have got a great chair here, sir.

Father Lombardi: —and your chair is as strong as the support you get from your directors. And unlike a corporation the chairman is supposed to reflect the decisions made at the board level. So I think that being a chairperson she is one of seven. I guess that is the positive side of it.

Mr Carr: One of the things Susan Eng had done in the past is rate the chief in the press on a scorecard. Do you plan on doing anything like that?

Father Lombardi: As I understand the act, that is one of the obligations and responsibilities of the commission, to evaluate the performance of the chief—

Interjection: In the Toronto Star?

Mr Carr: In the Toronto Star?

Father Lombardi: I would not have done that, I would have gone through the proper procedures but you will have to ask her that. That is something I would not have done but—

Mr Carr: Do you think you are going to get a chance to ask her before you make a decision to support her as the chair or is that decision already made?

Father Lombardi: Excuse me?

Mr Carr: Will you get a chance to ask her about some of the concerns like that before you vote for her as the chair, or is that—

Father Lombardi: I do not know what the process is when you get into the committee room. I do not know when somebody submits their name, what questions are asked. I would think that there would be some questions asked around the table, some of us assume that. I really do not know the answer to your question because I do not know if there is a tradition in the commission, how those things are done. But I would think that we would be given an opportunity to discuss concerns, and if anybody has concerns, then that would be discussed.

Mr Carr: In light of that and if in fact it is an open process, that any of the people there can become chair, you are quite willing to look at maybe selecting somebody else and having a process where you do discuss it, not go into it and say, "Well, the Premier said"—

Father Lombardi: I am sorry, I cannot hear you.

Mr Carr: Okay, I will yell out—

Father Lombardi: If you could just speak a little louder, okay?

Mr Carr: So you are in favour of a process where you do not go in with preconceived ideas and say, "The Premier wants Susan Eng as chair so she is going to be." You would like to see a process where you actually discuss it—and pick the best possible person?

Father Lombardi: I presumed that was what the process was. The fact that I am here is no guarantee that I am going to be selected. I mean, is it?

Interjection: Yes.

Interjections.

Mr Carr: I think he looks worried, though.

Father Lombardi: No, but I am talking about the fact that it is not official, that it is a suggestion, and also the question of the chair.

Mr Carr: How much time do we have?

The Chair: You have two and a half minutes.

Mr Stockwell: I have a question, political affiliation, card-carrying worker, donated, any party?

Father Lombardi: No. Somebody asked me that question. I said, "Ask any political party that sees me on

the steps of the Legislature picketing against the present government—it has been all three for the last 17 years.

Mr Stockwell: That really does not answer my question, though.

Father Lombardi: No.

Mr Stockwell: No membership, no donations, no working in anyone's campaign?

Father Lombardi: No.

Mr Stockwell: Okay. The next question is with respect to the Premier. You are telling me that no one in the Premier's office or the Premier himself told you you should be voting for Susan Eng.

Father Lombardi: No.

Mr Stockwell: They never mentioned that as part of the criteria?

Father Lombardi: No, they did not mention that because the discussion did not arise. When we began the discussion, I said I would not have any problems about Susan Eng at all so—

Mr Stockwell: Pardon?

Father Lombardi: I do not have any problem with Susan Eng at all.

Mr Stockwell: When you say you do not have any problem with Susan Eng as chairman, would you not think that means you are going to vote for Susan Eng?

Father Lombardi: I hope not.

Interjection.

Mr Stockwell: Excuse me?

Mrs Haslam: I do not have any problem with you. I would not vote for you, Chris.

Mr Stockwell: Thank God. Now let's be honest here—

Father Lombardi: I am.

Mr Stockwell: You are talking about her to the Premier and you say, "I do not have any problem with Susan Eng as chairman." Would you not think that they would assume that you are going to vote for Susan Eng as chairman?

Father Lombardi: They can assume all they want, that is not my assumption.

Mr Stockwell: That is not your assumption.

Father Lombardi: Yes.

Mr Stockwell: So if there is in fact opposition to Susan Eng as chair of the police board you would give full consideration to vote for the other person running against her?

Father Lombardi: I hope so, yes.

Mr Stockwell: So it is not a done deal.

Father Lombardi: In my estimation it is not a done deal. But the question is, I think, everybody has biases. When it comes to my experience with Susan Eng I do not have problems with it. If my opinion changes, then I think I have a right to change it.

Mr Stockwell: Maybe so, but the Premier has given us the distinct impression that it is a done deal. In fact, I think he was quoted in the paper, giving that impression, that it is a done deal. Now, I can only assume he knows it is a done deal because the appointments he is making are committed to vote for Susan Eng.

Father Lombardi: But I have already said in public that I would vote for Susan Eng, unless I know otherwise.

Mr Stockwell: Unless you know otherwise? Well, the only person that could know that is you.

Father Lombardi: Well, I will find out when we have the meetings with the board.

The Chair: Members of the government party? Mr Wiseman?

Mr Wiseman: I would like to start by pointing out that you have received a fair amount of support from other people on the board, including the past chair, who has written a letter saying:

"On behalf of the Metropolitan Toronto Board of Commissioners of Police, I extend my sincere thanks for assisting, over the past 12 months, in compiling the board's race relations policy.

"Your voluntary contribution of time and expertise has resulted in the publication of a policy document which will make a significant contribution towards this board's commitment to provide appropriate and effective police services which respect the diverse population of Metro Toronto.

"I understand that we are the first major North American police force to develop and adopt such a comprehensive, community-oriented and publicly accessible policy. I am deeply grateful that you elected to participate in this effort."

I would like you to expand upon the effort that you put into helping to create that document, and then perhaps you could explain how you see this document helping to reduce the tensions and some of the problems in the community as they exist today.

Father Lombardi: If I could step back about 10 years, looking at the issue of race relations, discrimination and the kinds of issues that any policy or any community would have, I made the clear decision that I was not going to spend a lot of time in church basements telling people about racism. I felt that the question of effective race relations policies was best dealt with at the highest levels in all the community, including school boards.

So I and other people began to assist school boards to develop race relations policies with respect to hiring, education and a number of things. Now, I will admit, policy is not the be-all and end-all; but it sets the framework for how one behaves and how one should react in particular institutions. And the police force is no different. They had standing order 24, and coming out of mediations that took place in North York with police in the community, although they had standing order 24 and bits and pieces of a race relations policy, it was not unified in one package, and we felt that the best thing would be to do that.

So I suggested to June Rowlands that that be developed, and she agreed. We had a number of meetings set up, and then we had community consultation, the same process as with the school boards which was very effective. The question of policies to ensure the kinds of quality

relationships within the force itself also has its implications and ripple effect both in the community and in everything you do. So I think policies are very important. Again, they set the parameters, and then they are to be developed.

Mr Wiseman: Since the former chair of the police commission has a high regard for you, I am a little curious. You must have spent a lot of time dealing with the rank-and-file policemen in the work that you have done.

Father Lombardi: Yes.

Mr Wiseman: How would you characterize your relationship with the rank-and-file policemen? How do you think they view you and how do you view them?

Father Lombardi: I think there is mutual respect. They have got a very difficult job and sometimes they are not necessarily getting credit for it, but their heart is in the right place. I think they want to do their job. They are dedicated individuals and professionals, and I think all of us need to support that initiative.

1030

Mr Wiseman: One last question for me, because I will get cut off again.

Mr Bradley: You know the problem on this committee.

Mr Wiseman: He stole my two minutes.

Mr Bradley: This committee does not have enough time to deal with these matters, that is why.

Mr Wiseman: Obviously you have discussed issues with the rank-and-file policemen. What have they told you about changes they would like to see being made in the police force?

Father Lombardi: They have not told me the kinds of changes, specifically, but I think one of the things they have felt over the years is that they are not being appreciated enough for the kinds of work they do, the many hours of volunteer work they do, the kinds of initiatives outside their own responsibility and the kinds of things they do as police officers. Their volunteer work in a number of sectors is not adequately known and there is probably a real problem with the whole public relations issues around that. So I think those are some of their concerns. I have never heard them say they shy away from criticism, but at the same time they feel sometimes it is too one-sided and they say, "What about all the good stuff that I do?" So those are the kinds of things, especially, that happen.

Mr Wiseman: Do you see your role on the police commission also as an advocate in that regard, then?

Father Lombardi: Absolutely, and also the question of trying to bridge communities, different ethnic communities together with the police; and looking at strategies around that, how the community comes together. Even though they have differences, they come together with the whole question of security, enforcement and safety in the community of property and people.

The Chair: Is there anyone else from the government party?

Mr Frankford: Two of the things linked with much of the crime now are guns and drugs. Do you have any views on changes in legislation or societal approaches that would help?

Father Lombardi: I chair two task forces on drugs. One is the Multifaith Task Force on Substance Abuse for the province of Ontario and there are 30 faith groups. We have been operating for about a year and there is recognition that the faith groups have an important role to play in the whole question of safety and, specifically, substance abuse. I also chair part of Caritas Project, which is a substance-abuse treatment program. Then the third one I am on is the archdiocesan task force trying to develop a model for parish home and school to look effectively at the question of substance abuse.

While the question of enforcement came up last meeting, there are other considerations about prevention and that substance abuse is really not necessarily the problem as much as it is the result of a number of problems. You will find that successful programs in substance abuse—you go to Alcoholics Anonymous and they will tell you that they have been able to rehabilitate themselves because they realize there is a spiritual dimension in their lives. They say that, that is not me saying it, although I agree with them. But the point is, there is a spiritual dimension there.

So, why people take drugs, or how you prevent them from taking drugs, the kinds of programs in the community that would help the community address the problem—I have interviewed a lot of people, especially women and children, and the anxiety, the fear they have is real, and I think we really need to look at community projects to reduce that fear and help communities work together to resolve some of the issues around substance abuse. There are a variety of initiatives that need to be taken and I would like to take a look at that, not the least of which is the youth.

Mr Frankford: Am I hearing you say that the policing aspect should be somewhat downplayed, or be less of a priority?

Father Lombardi: No. I think it becomes a question of looking at the realities and saying, "In some cases, in some areas, the policing aspect may not need to be the main community thrust in terms of education." I think it depends on what the community's needs are, but enforcement has to be there, prevention has to be there, education and all the rest of the things that go with it, not the least of which, again, is government policy.

Sometimes government policy creates problems in a community and I will give you an example. When I was chaplain of the Don Jail, there were too many psychiatric patients in the jail; that is public knowledge, and the reason why is because the deinstitutionalization process that happened a number of years ago resulted in these people coming into the community without the necessary support structures and, therefore, causing the police to arrest them because they were creating a disturbance, and having to put them in jails where they did not belong. I would venture to say that is probably still the case if you go to the detention centres. I do not know what they are doing about it now.

With respect to substance abuse, you are talking about treatment in the United States and the whole question of drug treatment in Ontario; where do they go? The millions of dollars that are going to another country, the government is aware of that; let's see what they do with it.

There are a number of things happening that put pressure at the bottom end that the police officers have to deal with, and it obviously changes the structure and how policing is done. In that sense it is good, and then it requires the police college and those responsible for police training, as well as advice from people like ourselves. But policing procedures, the way policing was done years ago is changing now because of the needs of the community. And I think that is good.

Mr Silipo: Father Lombardi, I certainly know of some of your work within the community, particularly the Italian Canadian community, and the respect that you have within that community.

If you were to be able to look back at the end of your term if you were appointed to the police board, what are one or two things that you would like to ensure will have happened by the time you leave the board?

Father Lombardi: I never thought of it. I would think it would be the whole race relations issue with respect to the communities working together, respecting their differences but also seeing common ground where they can effectively use their resources and their talents, whatever those resources are, whether it is intellectual, whether it is personal talents or financial, that they would come together to define some common goals to make the community a better place to live.

I do not know if you are aware of the peace garden at city hall. It was that kind of concern I had with the community. We live in a community and people say I am prejudiced with regard to the Toronto metropolitan area. It is a unique place to live. I have lived in other places and you come home and you appreciate the diversity. There is no place like it anywhere. Here people come from various backgrounds, various cultures, to live in peace. There was no visible expression of Toronto people's desire for both community peace and world peace. So I suggested that the peace garden be built and I went to Japan and brought the flame back.

The reality is that we need to praise people for that. We need to give them credit that they are law-abiding and peace-loving; they have to be applauded for that because without that kind of format and that kind of vision we would have a difficult time in our communities. I think the community has to be given credit for being law-abiding and working closely with the police department. I think it is an important thing to state. It is not just Metro; I think it is all of Ontario. I can only speak of Metro because I have been most of my life in the Metro area.

The Chair: Thank you very much, Father Lombardi. Thirty seconds or less, if you could make an observation, if you have one to offer, with respect to the change of oath which has had a lot of attention today. Do you have any comments you would like to make on that?

Father Lombardi: On what?

The Chair: The change of oath with respect to not taking an oath to the Queen.

Father Lombardi: That is a difficult one. That is a tradition, feelings run deep, I have not really given it much thought. I know there is real sensitivity around that and I think it depends on who you talk to as to how sensitive it becomes. When you get to my age you start wondering after a while, but people have grown up with the tradition and other people may not have that same kind of background. It is a very, very difficult issue, and I really do not know how to respond to it.

I just think being sensitive to the sensitivities all around, not the least of which is the feeling that it is disrespect for the Queen, or that we are not for Canada, we are not for each other, it is a very difficult thing. Just appreciate the sensitivities.

1040

The Chair: Thanks very much. We appreciate you appearing here today.

LAURA ROWE

The Chair: Ms Rowe, welcome to the committee. You have been selected for review by the official opposition and we will open up the questioning with Mr Grandmaître.

Mr Grandmaître: Good morning, Ms Rowe. You were chosen among, what, nine million people in this province to become a commissioner. How would you describe yourself? What makes you the ideal commissioner?

Ms Rowe: I think I am the ideal commissioner because I have had 13 years' experience in Toronto doing community organizing work. I have had a great deal of personal history with issues around poverty, having raised children of my own and having lived on family benefits to get an education. I have worked within the women's movement, particularly on victim assistance issues, so I have worked very directly in police liaison work. I have been active in anti-racism work. I have developed employment equity policies in the agencies that I have worked in. I have developed personnel policy. I have acted as liaison between management and staff groups. I have negotiated with the Ministry of Health for the employees at the agency I work for. I have covered a wide range of issues in my work. I also run a mediation and facilitation business, so I am, I think, experienced at building complex compromises in very polarized situations. Is that the kind of answer you were looking for?

Mr Grandmaître: It is your answer. I know it is my question, but—

Ms Rowe: Well, I wondered if you needed a more complete answer.

Mr Grandmaître: Do you hope to replace Susan Eng as chairperson one day? Are you next on the list?

Ms Rowe: Actually, I am so nervous about being here today and so anxious to hear your evaluation of my credentials that that is beyond anything I could imagine. To tell you the truth, it is sort of like dropping Dorothy in Oz.

Mr Grandmaître: Can you briefly give us your thoughts on the employment equity program or the quotas that you will be asked to respect in the next three or four years, as far as ethnic representation on the Metro police force? Can you give me your thoughts on that policy?

Ms Rowe: Yes. I was lucky enough to attend the public part of the commission recently and saw some of the figures in terms of percentage increase in equity employment and I was glad they exceeded the target numbers that had been named by the board in the past. I am very interested in seeing equity employment become part of the agenda of the police services board, if I am a part of that board. I think it is essential that the police force in Toronto represent the community and that the community appreciate the police force that it has. That is going to happen through some kind of osmosis taking place, where we do some trade-offs and get some representative work and education happening both ways. I think some of that is going to happen to equity employment.

Mr Grandmaître: One last question then and we will go on to Mr McGuinty. One last question, Ms Rowe. We know that you were told to vote for Susan Eng. Would you have voted for Susan even if you were not told?

Ms Rowe: Actually, it did not quite happen that way. I was told that I was the appointed designate. I had to come before the standing committee but I was the appointed designate and I was asked if I would vote for Susan Eng and I said yes. In part, why I said yes is because, although I am not in agreement with all the things that Susan represents, I do think I am in agreement fundamentally with many of the things that she says. So yes, I will be voting for her. I can answer that quite categorically.

Mr McGuinty: Ms Rowe, I have just reviewed your CV here and I do not see any indication that you have had experience related to policing or, for that matter, related to the criminal justice system. Is there anything there that I am missing?

Ms Rowe: I can tell you first of all that I spent five years at the rape crisis centre setting up a program that was basically a liaison program between the community relations officers in the five districts. That involved everything from phone conversations to informal wine and cheese parties and things like that so that we could set up a program of public speaking on the issues surrounding rape and sexual assault with uniformed police officers in each of the divisions. I went on Sunday mornings and did what were referred to as bull sessions—I always hoped they were more session and less bull—and spoke to about 40 police officers each Sunday over a two- or three-year period on issues surrounding rape, sexual assault, wife-battering and victim assistance. The new forensic kit had just come out then and been released by the Solicitor General's office at great cost and so I talked about collection of forensic evidence at that point.

I also wrote a handbook on the use of that forensic kit, rape trauma syndrome, the way to get the best kind of evidence from a woman who is traumatized, etc. That book was written for the Metro Toronto police. Five thousand copies of it were published and distributed to the CROs, and future publishings were the responsibility of the Metro Toronto police force. I do not know whether it has been published again, but certainly we blanketed the city with that booklet and I wrote it.

In terms of my current work since I left the centre, I have probably come into more constant contact with uniformed police officers than a lot of people because I work in a group home with people who have psychiatric disabilities and often are either a danger to themselves or to others and who are often very vulnerable to assault. I am currently working as an advocate for one of those women with Officer Tinkler and Detective Ferguson out of 52 Division, who have been incredibly sensitive—

The Chair: I am going to have to tell you that we are on very tough time lines here and we have now exceeded the official opposition time limit. We will have to move on to Mr Carr. I am sorry.

Ms Rowe: I am sorry I just had to say so much.

The Chair: You may have a chance in another response.

Mr Carr: I was interested in the process of how you were chosen. Mr Lombardi came in and said that he was actually called and he was, if you want, drafted. What was the process and how did you get chosen?

Ms Rowe: I was encouraged by friends, none of whom I could name that you would know, but friends I have worked with in the community through the rape crisis centre and the other kinds of victim advocacy work I have done, to apply for the Ontario Human Rights Commission. I sent in an application, and this résumé that you have in front of you, for the human rights commission.

When Carol Phillips reviewed my application, she called me in for an interview and suggested to me at that point that I might want to consider the Metropolitan Toronto Police Services Board, despite the fact that it would be a more difficult task in some ways, but that my mediation skills might serve me well there as well as my anti-poverty work and my work within the community and basically my front-line work with people who do not usually have access to political power.

1050

Mr Carr: You were drafted by Mr Lombardi as well as the Premier's office, if you will, on this particular—

Ms Rowe: Nobody phoned me to ask me, nobody knew me.

Mr Carr: Did Carol Phillips call?

Ms Rowe: Carol Phillips did not know me before she got my application and she called me in.

Mr Carr: No, I meant, she called you afterwards.

Ms Rowe: Yes.

Mr Carr: I was interested in a quote from Art Lymer that talked about some of his concerns with yourself and he says, "My concern with Rowe is her intelligence and understanding of what the police work is all about," you may have read this, "and the difficulties of policing and her interest in the men and women who make up the force." I was wondering what you would say to Mr Lymer which would alleviate some of those concerns that he

might have. How are you going to handle that and bridge what would seem to me to be a tremendous gap? How are you going to handle that?

Ms Rowe: In terms of my intelligence, I hope that would become obvious to Mr Lymer after speaking to me for a few minutes. I do not feel that this is in question.

The issue of how police officers are going to feel about me depends on how much access, I think, commissioners get to police officers. Right now, there seems to me to be a very clear buffer between the brass and the uniformed police officers. I would really like to see some of that break down a bit and have more access and more casual contact. I have two cousins who are OPP officers, one of whom had to leave the OPP when he felt his job became too dangerous because they put him on single patrol at night. I want to hear those kinds of concerns.

Mr Carr: That is good because I spent some time up on 31 with the police division; that is the Jane and Finch area and there is only one commissioner who has ever spent the time to go out there in the middle of the night when the real crimes—they say to me that they are making decisions on the front line and nobody has ever been there to see, other than commissioner Gardner, I guess.

I am interested in your work regarding some of the rape crisis centres. I read where sexual attacks on women are up 32.8%, police say. I think what the public is looking for from you are some real concrete solutions to the problem, and to make our streets safe again. I think that should be the first priority: to make our streets safe. That is what is concerning people now. What would be the priorities and how are you going to do that, to try and make our streets safe, not only from the sexual attacks that are out there, but the murders that are on the rise, the break-and-enters that are on the rise? How are you going to do that? How are you going to tackle it?

Ms Rowe: I think I have a lot to learn and will use Ted Price and the chief to inform myself. I know there are solutions to issues around assaults on women and some of those solutions are laying charges. That, many times, does not happen. So I would like to see that happen more often.

I really am a strong proponent of education. I do not know if any of you saw the CITY TV report last night; one of the police officers showed an empty office saying, "This is our sexual assault squad office and there's nobody in it because they're all out on calls." That really concerned me, and I thought that clearly part of how this is addressed is in terms of how we look at the budget line by line and where we decide to spend money.

Mr Stockwell: Party affiliation: Do you have any?

Ms Rowe: I do not. I am not a member of a party. You are not asking me about how I vote. You are asking me if I have ever held a card or anything.

Mr Stockwell: No. If you worked last election? Made donations?

Ms Rowe: No.

Mr Stockwell: Quota systems: a lot of talk about quota systems. What is your opinion?

Ms Rowe: I think affirmative action is very important and I think equity hiring is very important, but I think it is essential that anybody coming into the police force feels they are welcome. And I think it is essential that the police force have access to the communities that you are targeting for equity hiring. So trust has to be built up and I would like to see more of that happening.

Mr Stockwell: But you do not necessarily believe in quotas.

Ms Rowe: I could listen to argument on it. I have not formed a solid opinion. I am not sure that they work, but I am certainly a strong proponent of equity hiring.

Mr Stockwell: Equity hiring. For instance, I see you are a spokesman for the gay and lesbian community—would there be an equity hiring program for that community?

Ms Rowe: That is a former group that I was a part of. It is listed under my former affiliations.

Mr Stockwell: Oh, I am sorry, yes.

Ms Rowe: That is okay.

Mr Stockwell: Should we include that component of society as part of our equity hiring on the police force?

Ms Rowe: My guess is that there are probably quite a few gay and lesbian police officers and—

Mr Stockwell: I would probably agree with you, but I am asking you, should that be—

Ms Rowe: Right now my focus is equity hiring in terms of visible minorities—

Mr Stockwell: Visible minorities, disabled, women?

Ms Rowe: Yes.

Mr Stockwell: So that would be on the back burner. You said you want to get more involved in the policing—

Ms Rowe: I just want to stop you there. I presume that the police force is held accountable to the Ontario Human Rights Code and that gay and lesbian police officers have access to that and—

Mr Stockwell: Yes, just like everyone else.

Ms Rowe: Yes, I would hope so.

Mr Stockwell: Of course, yes. Policing—you are a commissioner. How much more involved do you want to get? I think that is very dangerous, frankly, to get too involved in the policing aspect. You are setting policy. You are making statements on the policy and the avenues that you want to see policing take in Metropolitan Toronto. Now I do not see you out policing or in fact directing police. You did not mean getting involved with respect to taking complaints from policemen about their work, along those lines?

Ms Rowe: No. If I happen to be at Knob Hill Farms where I shop and the police officer on duty could take a coffee break, I would love to hear what it is like to spend a Saturday working that job.

Mr Stockwell: The Knob Hill Farms beat?

Ms Rowe: Yes, and it is a tough one. Actually he often helps me with my five-year-old who goes into the washroom by himself. I worry about him and the police officer is often the one who goes in to get him. So I would

like to have those kinds of informal chats, but I am not asking to have any direct power over uniformed police officers.

Mr Stockwell: Do you know all the members of the police board personally?

Ms Rowe: No, I do not know many of them personally.

Mr Stockwell: How do you know you would vote for Susan Eng then?

Ms Rowe: I have met Susan.

Mr Stockwell: But you have not met the other ones.

Ms Rowe: I have met Massey and I have met Susan and I sat in on the public part of a board meeting recently. But I do read the paper and I am well informed.

Mr Stockwell: You just mentioned Art Lymer commenting he should maybe talk with you for a few minutes to form an opinion. Do you think maybe you should talk to members of the police commission before forming an opinion on whom you would vote for for chairman?

Ms Rowe: As I said, I have read—

Mr Stockwell: You have read the paper.

Ms Rowe: I have read the paper. I understand the positions that are being put forth, and I have spoken to Susan Eng and I have sat in public parts of the commission meeting and heard Norm Gardner and Alan Tonks and the chief and Ted Price and June Rowlands and everybody speak, yes.

Mr Stockwell: And also, considering you have given an undertaking to the government to support Susan Eng, that has something to do with it, I would assume.

Ms Rowe: As I said, I was told I was appointed before I was asked for that.

Mrs Haslam: I am interested in the issue of policing in general because I think that is something that we are looking at: not just all the ins and outs of the uniformed police but policing in general. What are some of the problems you see in policing today?

Ms Rowe: I see a great lack of community confidence and I see a great demoralization of the officers on the force because of that lack of community confidence and I would like to see those things changed. I would like to see our community feel as though the police force is responsive and caring and truly there to protect and serve, and I would like to see our police force feel appreciated, believed in and supported for the work that they do. I think that can only happen with some exchange of ideas, some very clear messages that the police are subject to and bound by the same rules and regulations as we are.

I am a little concerned, for example, that, during investigations of police misconduct, information that comes out of those investigations can be used, in my understanding, in the courtroom if the police officer is charged. So therefore that police officer does not have the same legal rights as any other defendant in a criminal case, because he is not given the warnings about his right to a lawyer to protect himself. I want to see that working both ways: I want to see police protecting the rights of individuals, I want to see them responsible for their actions, but I also want to see them treated fairly under the law when their actions are not legal.

1100

Mrs Haslam: I was looking at the Toronto Rape Crisis Centre. Violence against women, I think, is something that we all have to be concerned about. Do you think your experiences there will help in some way on the board, and could you maybe tell me how you feel your mediation experience and your work in the rape crisis centre could help you on the board?

Ms Rowe: In a number of ways. I would be happy to do any work that I can with the sexual assault squad. I think there are probably public education programs that could be set up that I can aid in and certainly support in terms of finding the moneys. I would like the focus, in terms of sexual assault, to be on policing rather than education, because often the implication of educating women about sexual assault is that, "If you had done this or if you had not done that or if you followed our rules, it would not have happened to you." I do not think that is true. I would like to see more charges laid, because very often a charge does not even get on the books; it is just considered unfounded. All kinds of factors affect that, and it is one of the things that I think we can be talking about and dealing with.

Mrs Haslam: If you are successful in this appointment, you will be one of two women on the board, is that correct?

Ms Rowe: Yes.

Mrs Haslam: As one woman on this committee, I wish you well.

Ms Rowe: Thank you.

Mr Silipo: It seems to me that there certainly are some deep divisions on the police services board, which have probably crystallized around the issue of Susan Eng's possible selection as the chair of the board. How deep do you think those divisions are, and more important, what do you think the board is going to have to do to try to overcome some of those divisions?

Ms Rowe: Again, my experience is so limited, because I was only allowed to be a part of the public part of the meeting. What I saw there were intelligent, active, complex people, and I presume that intelligent, active, complex people can build intelligent, active, complex compromises, and I think that is what is going to happen. I think that is what is going to have to happen from Susan's end, I think it is going to have to come from me, and I think it is going to have to come from Mr Tonks and Mr Gardner. Mr Flynn was actually amazing in this meeting, and I think he will be a great asset to building those kinds of compromises.

I spent a couple of hours on the phone with Ted Price, who, as you know, works very closely with the chief, and does seem to have a great capacity for compromise and for taking small steps if he cannot take the big ones. So that is what I see happening.

The Chair: Ms Rowe, you made some revelations about your personal life last week. I am just curious: When

you decided to do that, were you advised or encouraged by anyone associated with the government or a member of the government, or was that a completely personal decision?

Ms Rowe: Certainly Carol Phillips, because as I said, originally my application was for the human rights commission, so in my covering letter I talked about the fact that I am a lesbian, that I have a child of African Canadian descent, all the things that I think makes me sensitive to human rights issues. That was information that I gave both her and Bob Rae's office permission to release. I found out later that there is some problem with releasing information like that, that the press is not allowed to print that unless they ask me.

Mr Grandmaître: Since when?

Ms Rowe: Well, this is what they told me.

Mr Stockwell: Do not buy into that.

Ms Rowe: Do not buy that? Okay, thank you. I will remember that.

I was being interviewed on a fairly consistent basis with the assumption that because I had small children I had a male partner. I became very uncomfortable with the lie by omission, and I felt for a long time that it is very important that public officials, and even potential public officials, tell the truth. I want to hear the truth and I want to try and tell it as I know it.

The Chair: So you believe your sexual orientation—you indicated that clearly in your application to the government—was a factor in terms of the government making a decision to select you to serve on the police board.

Ms Rowe: No, actually I was not asked. The times I was interviewed, I do not think my sexual orientation was one of the issues considered a plus for the police board. I was asked primarily about my work in victim assistance, my work in police liaison training, and my work in mediation. Those are the areas that were focused on. I think also my anti-poverty work and my time living in a housing project and on family benefits, given that the connection between poverty and crime is so often made in the press and other places, those are the issues that they were focusing on.

The Chair: Well, thank you very much. I wish you well.

Ms Rowe: Am I done?

The Chair: This is it, yes.

Ms Rowe: Thank you.

The Chair: Could I encourage those members who want to carry on conversations to do so in the hall? We still have a number of intended appointees to consider this morning.

ODOARDO DI SANTO

The Chair: The next intended appointee is Odoardo Di Santo. Mr Di Santo, would you like to come forward, please? Welcome back to a reasonably familiar room to you. Before we begin, I will afford you an opportunity for a few brief comments, if you wish, before we get into questioning.

Mr Di Santo: No, that is okay.

The Chair: You were selected by the official opposition for review, and they will begin the questioning. Mr Grandmaître.

Mr Grandmaître: What are the most pressing issues or problems with the Worker's Compensation Board at the present time?

Mr Di Santo: At this moment I think the Worker's Compensation Board is faced with many problems. One of the problems is financial, due to falling revenues caused mostly by the recession. It is affecting the government and all the other public institutions. Apart from that, the Workers' Compensation Board at this time has problems that are related to the way the board operates and basically the way the board delivers its services to its clients: the accident victims and the employers.

1110

In the last five years the board underwent a number of changes and reorganizations. Because of that, and also I think because of some inherent problems that went with the reorganization, morale problems were created within the board. The service delivery at this point leaves a lot to be desired. There are problems with the adjudication system, with the length of time that it takes to make a decision. There is, of course, a problem with employers having access to the revenue department and the way they are assessed.

Just yesterday an employer called me because he could not get through to anyone, he had an assessment and they were going to issue a writ and he wanted this assessment rescheduled. Because of the innovations introduced in the board, it is extremely difficult for the injured workers and for employers to have the kind of service that is acceptable. I am not there yet, so we have to assess the situation when I get to the board. One of the reasons is the high volume of claims that the adjudicators have.

I am told the adjudicators have to deal with 400 claims. That is, in my opinion, excessive. If that is the case, of course you can imagine how long the people who need service have to wait. As director of the office of the worker adviser, we ran a number of seminars and that was the universal complaint we received from members' assistants: that they were unable to access the board and have fast and possibly equitable decisions for their constituents. This is the first problem that we have to deal with and we have to deal with very soon because, as you understand, justice delayed is justice denied.

We have cases of workers who have been waiting months and months and months without a decision and in many cases workers' compensation is the only income for those people, so it becomes really a very sad situation. From the human point of view it is intolerable. I think if the board is to achieve its mandate it has to be able to deliver its services in an acceptable time.

We see a number of problems with the board that directly affect the injured workers, because the injured workers are the recipients of the benefits and those who are affected directly and personally, and also affect the employers. In fact, I think the only unanimity that exists between the workers

and the employers is in the way they see the board: as an organization which is not responsive, which is faceless. I think we have to humanize that organization and make sure that a worker who needs service is able to relate to a person at the board in human terms and be understood and be able to express his or her concern, and the same for the employers.

I had an example of some employers who came to my office. That may seem ironic to you because the office of the worker adviser is mandated to represent injured workers. But the employers, like the injured workers, go everywhere possible if they cannot have access to the board. I had this particular employer who until last year was a big employer in the construction industry with 225 workers; now he is scaling down because of the crisis in the industry. He could not get his assessment rescheduled. He was risking bankruptcy because the board would not release clearance on all seven accounts and he could not pay all seven accounts. The only logical thing we could think of is that he set each account at the same time, and as soon as he paid an account he would deal with the other one and in the meantime he could survive.

So there is unanimity between the workers and the employers in the way they see the board. From the point of view of the workers, there are some policies that must be changed and we will attempt to change them.

There have been many reports. One report on rehabilitation was done for the last government by Minna and Majesky. It is essential that workers who get injured on the job and need to go back to the labour market be rehabilitated. As it is today, and, I must say, as a result of Bill 162, rehabilitation is not only not mandatory but has been downgraded to the point where it is non-existent. In fact, the requirement of Bill 162 is only for an assessment for rehabilitation purposes, which of course is totally inadequate, especially in a changing labour market and with the requirements of training and retraining required by the changes in our economy. Rehabilitation is one of the aspects. Benefits are another aspect.

Mr Grandmaître: Mr Di Santo, I do not like interrupt you but I would like to go on to—

The Chair: That that answer took up about 80% of the opposition's time. You have one more question, and I would encourage Mr Di Santo to give a brief response.

Mr Di Santo: Mr Chairman, I apologize.

Mr Grandmaître: I think you have the same problem as our Speaker, Mr Chairman. You let people go on too long.

Mr Di Santo, you have mentioned the financial problem the board is faced with, and also delays in dealing with different cases. Does that mean we can expect an increase in worker's compensation fees to business people and also workers? Does that mean we need to increase those fees?

Mr Di Santo: I think that question must be put in context. If you are asking me if I made up my mind that I want to increase assessments because of the problems, then the answer is no. But of course there would be some increases that will go with inflation, because the costs of the board are not decreasing, and I would be less than honest if I said that three years from now we will bring the financial situation of the board under control and we will reduce all the outstanding liabilities. That is not possible, it is not reality; it has been attempted in the past to retire the unfunded liability in a number of years. But what I make a commitment to do and what I will attempt to do is that we will introduce programs that in the long range will be beneficial to the board financially.

Mr Carr: I think all members are concerned about the amount of time our offices take dealing with the issue of the WCB. As all members know, it could be about 50% of the day on that one issue alone. What recommendations as a former member would you make on how to deal with this big issue that literally is taking about half the offices' time? What would you suggest we do to help the workers and the process?

1120

Mr Di Santo: Mr Chairman, I will try not to take too much time, but I have been involved in workers' compensation since 1967 when I tried to help former member Fred Young, who was the member for Yorkview in the west end of Toronto, and he had the same problem. On top of it, he had another problem, because most of the injured workers were Italians and he could not speak Italian and they could not speak English; it took a long time.

As the board is now, it is very difficult to reduce the time-consuming commitment you have to make to your constituents, because the organization is cumbersome. If we do not come to a situation where decisions are made speedily, you will spend a lot of time, because your constituents will come to you and you have to assist them. If they want to appeal, you have to make the appeal and the appeal takes a number of months.

The other important aspect that I think is crucial—this is my personal idea; I have not discussed it with anyone—is that we have to change the philosophy of the board. Since 1915 until Bill 162, the board operated practically as a priority insurance. The workers went to the board, they had some services, then they were left on their own. And when they are left on their own, they are without income. But they need to eat, so they come to the MPP because they want to get something more; it is human nature; they have no other source of income. So we have to change the public philosophy and the approach. We have to make sure that a worker who is injured on the job, and becomes disabled, has some guarantee from our society that he can get back to employment. Until now all the public institutions in our society—government, the board itself, municipalities, school boards—do not make any effort to rehire injured workers.

Mr Carr: On that point, do you see an increase in the amount of staffing? Because the big problem is that they cannot get through and the phone calls back up and then they get frustrated and they phone your office. Just from your experience, how many new people do you think you are going to need in the WCB to get rid of this backlog?

Mr Di Santo: I think, quite frankly, it is not a question of numbers, because if you look at the statistics, the number of claims dealt with by the Workers' Compensation

Board in the last 10 years does not vary too much: 430,000, 420,000, 410,000. I think it is the way they are dealt with that has become a problem. I remember that until a few years ago there were counselling specialists who dealt with some groups. Some people said that was an élitist approach because the MPPs have access and other people do not, but I think that was one of the ways to speed up the work and to make decisions very quickly. We have to try to think of some devices, but certainly I do not think the answer is an inordinate increase in staffing.

Mr Carr: How about when the decision came for you to take this? How did that process work? Were you in direct contact with the Premier's office? Being a former member, did you know Mr MacKenzie and he called up and said this is coming up? How did that work?

Mr Di Santo: I was called by Carol Phillips, whom I did not know. In fact, the first time I saw her was this morning. We never met before.

Mr Carr: She has been a busy lady, contacting everybody.

Mr Di Santo: She told me I was the intended nominee, and I thanked her very much.

Mr Carr: Was there any type of interview with the Premier or Mr MacKenzie or anybody, or was it just basically—

Mr Di Santo: No. In all fairness, having been a member of the Legislature and having been at the office of the worker adviser, I thought those were sufficient credentials for the Office of the Premier to—

Mr Carr: It is normal practice, because even though you are a member of the same party there could be differences. You did not have any "This is the direction we would like to go. Do you agree with this?" and so on. You really do not know if you are even going to be compatible with—

Mr Di Santo: Actually, I must tell you I know very little about the appointment. I have not seen the order in council. I do not even know when it comes. Miss Phillips has not told me.

Mr Grandmaître: We do not know either.

Mr Di Santo: You do not know either, so we are all in the same boat.

Mr Carr: So you have not been able to say, "This is going to be my number one priority and number two," and make sure it meshes with the government's.

Mr Di Santo: No, I have not, but as I said before, they know exactly where I stand, because in the last number of years I have been involved not only in running the office—

Mr Carr: But that was when you were in opposition. Now you are in government, and it makes a difference.

Mr Di Santo: I must tell you that I was chosen by the previous Liberal government. I do not want to say that I am a man for all seasons, but it must have something to do with my background.

Mr Carr: I am just wondering how it is going to mesh. The problem in that area is so urgent it is my feeling that you should step in and have priorities right away. One of the criticisms about the government is that it is going to take a long time for somebody to get in and decide what it is. Meanwhile, we have a tremendous backlog and I guess I was hoping that the workers who are in the system now could have some assurance that by such and such a date—that the government has worked out its directions, knows its priorities, has set some deadlines, but I guess what you are telling me today is that really has not happened.

Mr Di Santo: We have not discussed that, but I think it is broadly understood because of my background and because of the position we have been expressing all along.

Mr Carr: But when you get this position, you have to be a lot more detailed. Of course, politicians in election campaigns put out one line for something, but now we are talking about a publicly detailed business plan that has to get right down to it. When you are talking about eliminating a problem like this I would suspect it is probably the most difficult position out there.

That is why I was hoping we would be able to say to the workers that the government has a plan: "We have this person in, we already know what fits, these are the priorities, this is the date we are going to do it." But coming out of this today, I do not think there is anything positive we can say to the workers, because basically you are going to have to get in there, look at it and understand what the situation is before we see any concrete priorities set up.

Mr Di Santo: Of course, I could not work out any work plan before appearing before the committee, and that is our first priority. But what we can say is that we want to reorganize the board, we want to make the service efficient, we want to have an open board, with consultation; and we want to work with the staff within the board, we want to work co-operatively because otherwise it does not work.

Mr Carr: Of course, as you know, that statement has been made by every government since it has been formed. That is a very broad statement.

Do you have any deadlines in your own mind? Because you know what is going to happen in your position: They are going to say that this is the situation as it was when you came in, including the unfunded liability portion and backlogs, and whenever your term is up people are going to say we are better off or we are worse off. Do you have any time frames, would you be able to say: "Boy, by a year from now we're going to have this thing under control, we're going to have a dent in it, and I'd like to have the number of cases reduced"? What is the time line you are looking at?

The Chair: You have one minute or less, Mr Di Santo.

Mr Di Santo: Very briefly, I cannot make any such commitment because I am not there yet. For instance, you know there are problems with overpayments. I do not know how the workers' benefits service works because I am not there. The system of paying out cheques must be changed. I know it must be changed because you end up paying $2 million, but I do not know why it happens. We have to be physically there. With the first annual report, I may be able to make the commitment you are asking me to make now.

Mr Carr: Thank you and good luck.

Mr Di Santo: Thank you.

1130

Mr Hayes: Mr Di Santo, I know a lot of changes have been made in the automotive industry, with its new technology. At one time they used to make different components or different engines; a worker would do different parts and not continually have the repetitive motion which in fact has created a lot of strains and sprains for the workers. I know this is part of the problem. Of course, at the same time that workers are complaining about more injuries happening in some of these industries, on the other hand you have the corporations saying, "our workers' comp premiums are just getting out of hand."

While there are people who may say, "Well, maybe it's the dumb worker, the worker didn't do the job the right way," I know from my own experience that there are areas where you can make changes, through ergonomics, for example, where you adapt the job to the person instead of trying to adapt the person to the job. If we continue this trend, I cannot see a whole lot being done without proper changing of jobs to fit the worker. I would like to know what involvement the board would have in trying to implement or at least make suggestions to the corporations, and unions for that matter, about proper training and retraining for workers to reduce some of the strains and sprains in the workplace.

Mr Di Santo: That has to be a major goal of the government in terms of public policy, because if you do not make the link between health and safety and accidents, then you will end up dealing with the symptoms, and that will never stop because you will have accidents for ever. I think the primary goal of any government must be the reduction of accidents, because every accident becomes a tragedy for the people who are involved and, of course, becomes a cost for society.

We have to be able to work together with the government, and the board must spearhead prevention as much as possible. With Bill 208, the first step has been made and I think the public policymaking process is directed now to accept the link between occupational health and accidents. Also, if we are going towards a comprehensive accident plan the Workers' Compensation Board must become part of that plan as well, but the ultimate goal must be reduction of the accidents and I think the board can do a lot in that field. There have been a number of programs and, as you know, there are a number of associations, such as the Construction Safety Association of Ontario, which deal particularly with prevention.

I do not know how effective that has been until now, basically because I think there has not been legislation directed, in a very tough way, at preventing accidents. So I think you have to educate the workers, you have to educate the employers, but also you have to make accidents very costly so that you discourage the accident from happening.

Mr Hayes: Of course, one of the problems also is that we seem to produce a lot more now with a lot less people.

Mr Di Santo: That is right. Productivity is another issue. In the last few years there have been a number of disabilities that have been recognized, like stress, disabilities resulting from ergonomics, and of course that is something we have been supporting in the last few years with the office of the worker adviser and our input in any consultation the board had, and at the board we would make sure it will contain it.

Mr Wiseman: I have a couple of constituent assistants who would be greatly appreciative of whatever you can do to expedite the claims at the Workers' Compensation Board. They spend an inordinate amount of time dealing with those and would very much like to see some changes made. Perhaps, if you need further input, some of these people who are dealing with it on a daily basis throughout the province might have some helpful hints.

I am interested in a couple of things Mr Hayes was saying. Do you know of any statistical breakdown or analysis of the types of accidents that most frequently happen?

Mr Di Santo: Basically, most of the accidents happen in heavy industries: construction, mining, lumber. But I do not have a breakdown of the accidents industry by industry; those are the industries, though, where there are more incidents. In fact, 49% of all the claims are generated in a relatively small geographic area, in the west end of Toronto and Mississauga, which is also the area where most of the construction workers are located.

Mr Wiseman: I guess if we had a breakdown of the types of accidents that occur, we might be able to develop some kind of strategy to reduce the number and the frequency.

Mr Di Santo: I think there is a breakdown. I do not have it.

Mr Wiseman: I was just curious as to what kind of direction you would see the board going in playing a role in that area because, as we have already heard, the costs are very high and, as you said, everybody would like to see those costs reduced.

Mr Di Santo: That is right. As I said before to Mr Hayes, I think the route to take is prevention, because the more you prevent accidents, the more the costs go down.

Mr Waters: How would you propose dealing with the unfunded liability of the Workers' Compensation Board at a time when business cannot afford any higher premiums?

Mr Di Santo: Well, the unfunded liability is not a present commitment. It is a commitment of the board towards future payments that it will have to make. I do not think there will ever be a situation where the whole liability of the board will be completely funded, because there are some unforeseen circumstances that will require some funds that are not present at that time. But I think right now the unfunded liability is in the range of $8 billion for all pensions and other benefits that the board will pay. I know there has been a plan to retire the liability. Initially the plan was set at the year 2014 and recently it has been brought to 2007. If that happens, and I cannot tell you right now because I have not seen the budget of the WCB, I think that is the direction to go.

Mr Waters: Another question I have is industrial disease.

The Chair: Make this quick because we are really out of time.

Mr Waters: Do you see the board dealing with industrial diseases in any other way than taking them into consideration in, shall we say, a more expeditious way?

Mr Di Santo: The board has been overtaken by circumstances because there are a number of diseases that are the result of technological changes and the introduction of chemicals and other hazardous matters in various industries. But I think we have to make an effort so that the board quickly recognizes new diseases. If you remember a few years ago with Johns Manville, a number of workers contracted cancer and when it was recognized most of them were dead. I do not think that should happen.

1140

The Chair: Thanks very much, Mr Di Santo. We wish you well.

BRIAN KING

The Chair: Next intended appointment has been selected by the third party, Mr Brian King.

Welcome to the committee, Mr King.

Mr King: Good morning.

The Chair: We are going to go right into questioning and we will begin with Mr Carr.

Mr Carr: I was interested in your background as a chairperson in Saskatchewan. One of the things you said was you "successfully introduced the first major design change in the 75-year history of workers' compensation in Canada," and "developed the financial integrity of the system." I was wondering if you could lay out what the plan was and if you see it working here and how you would implement it and why you think it was so successful.

Mr King: To simplify a good deal, on 1 January 1980 Saskatchewan introduced a wage-loss type of workers' compensation somewhat similar to what Ontario is entering right now. It had been untested and untried anywhere else in North America that we were aware of. Little was known of how to contemplate the future costs of a wage-loss plan because there was no model to look at. I was appointed in June of 1979 and we introduced the plan, fully functional, on 1 January 1980, six months later. That meant that we had to develop all of the policies, all of the procedures to put in place, and as well work very closely with consulting actuaries in determining a funding model for the wage-loss compensation plan.

I guess the success of the program is that it has been reviewed every four to five years since then by a tripartite committee composed of employers and workers and a neutral chair. They continue to commend the plan. They recommend modest changes to it but there is no critique of the actual plan itself or how it is running.

Second, the Saskatchewan board, the last time I looked, is in a fully funded position.

Mr Carr: Is that where it was when you left? When you came in, was it the same way or—

Mr King: It had been fully funded when I came in but we had introduced this major change in the workers' compensation system.

Mr Carr: So at the end when you left it was still—

Mr King: It was still fully funded.

Mr Carr: What about Manitoba? Was it—

Mr King: Manitoba, when I went there, there was around $80 million to $90 million of unfunded liability. We had not made a significant dent in that in the roughly two years that I was chair.

Mr Carr: Was it higher or lower after you left?

Mr King: I would suggest it was $5 to $7 million lower.

Mr Carr: So when you talk about "developed the financial integrity of the system," you really did not because not much changed in Saskatchewan. You went in okay, you came out okay. And in Manitoba you were pretty much the same, you made some changes but—

Mr King: I beg to differ. The board introduced a totally new concept in compensating injured workers. All of the existing actuarial assumptions had to be reviewed and remodeled, and it would have been very easy for the board either to overfund or underfund this new program. We worked very diligently to make sure we had sufficient money to look after the future needs of the injured workers without unduly burdening the employers, so it was very hard work to develop that funding model in Saskatchewan.

Mr Carr: How did you learn about this particular position? Were you solicited by Carol Phillips like some of the others here or did you apply?

Mr King: I was actually approached by an employment consulting firm—I do not, quite frankly, remember the name of it—from Toronto asking if I would be interested in taking this position. I was interviewed on the telephone for roughly an hour.

Mr Carr: By whom?

Mr King: Someone from this consulting firm. I do not know whether I even kept the name because the only contact I had with the consulting firm was that hour on the telephone. Based on that, I got a request to come down for an interview for the position.

Mr Carr: Who interviewed you?

Mr King: I went before Dr Elgie, the chairman of the board; George Thomson, the Deputy Minister of Labour; Carol Phillips was there and one other person who was with the Minister of Labour's office: Bill Reno, I believe it was.

Mr Carr: And did you talk about the direction you would like to take it or did they suggest this is where we would like to go, do you agree? Were there any policy decisions, options thrown out there?

Mr King: This was a job interview. As such, they did not give me any directions. They asked me questions. I told them my impression of the needs of the Ontario Workers' Compensation Board from my experience, which was service-oriented, the need to get the credibility of the system vastly improved.

Mr Carr: Your background. Are you a supporter of any party at all?

Mr King: No.

Mr Carr: Under the Saskatchewan plan, the government of the day was what party?

Mr King: The government of the day, when I started, was NDP. The government of the day when I left was Progressive Conservative. About half my term was under the NDP and about half under the Conservative Party.

Mr Carr: The same in Manitoba?

Mr King: That is correct.

Mr Carr: Came in under the NDP and went out under the Conservatives.

Mr King: That is correct.

Mr Carr: Good, let's hope it keeps up.

Mr Stockwell: How do you measure success? Your unfunded liability you suggest was a few millions down. What is your success measurement?

Mr King: I can tell you it was with some interest that I listened to some of the questions this morning of the preceding interviewee regarding the MPPs' and officers' time spent dealing with workers' compensation complaints. I can tell you that one of the lowest priorities of the MLAs in Saskatchewan was workers' compensation cases. They simply did not have problems.

Mr Stockwell: What is your success rate? How do you measure it? Is it reduction in unfunded liability? Where do I measure success for you?

Mr King: I suppose you will have to define that. I have to define myself what—

Mr Stockwell: Well, that is why you are here.

Mr King: How would I define success?

Mr Stockwell: I am asking you, yes.

Mr King: In my position, whether I am able to undertake the direction of the board vis-à-vis policy implementation and administration of the board.

Mr Stockwell: How about personally? Do you think the unfunded liability portion of the workers' compensation is a benchmark? Is that something you would like to see reduced? You do not consider it that important?

Mr King: It is so large that it sometimes is a staggering figure to me; of course I think it should be reduced, but I think it is a policy decision as to how far it should be reduced.

Mr Stockwell: Personally, I think it is so screwed up, I do not think anyone is going to fix it, but assuming someone can, maybe you are the person who should. When you report back to this committee or to the government, what would be your number one priority? If you report to the government, "This is what has to be done and I beg you to do this," what is it?

Mr King: My own theories of workers' compensation fit right into this. I believe that unless a compensation system can meet the needs of its clientele quickly and responsively, the boards are going to have a problem. Therefore I think the major need of the Ontario Workers' Compensation Board is, to use a metaphor, to answer the phones immediately, to get the decisions made immediately on workers' cases, to help the employers get their clearances and to know their assessment rates, because every time you alienate an employer and a worker and an MPP, you add another problem for the compensation board. If I report back here and you see a reduction in the number of complaints coming to your office, if you see increased speed in decision-making, I think you are going to see the improvement in workers' compensation you are looking for.

1150

Mr Stockwell: I would be happy with the reduction in the unfunded liability, frankly.

Mr King: One will lead to the other, in my view.

The Chair: Anyone from the government party? Mr Waters?

Mr Waters: I am going to ask one of the same questions I asked the last time, because it seems that it is quite important with our changing times. You are dealing with people with disease. I can tell you of one plant that closed down four or five years ago. It employed about 100 people. There are now 20 people that have contracted major disease, nine of whom are dead, and that is just one, so there is a lot of disease problems that do not seem to be handled by WCB very well. I was wondering if you could give us any insight as to how you would change those things.

Mr King: To some extent that may be the problem of the administration of the compensation board. Are they equipped to make decisions quickly on whether certain industrial processes lead to diseases? On the other hand, part of that may be a legislative problem. Some of the boards in Canada have schedules which make presumptions. If you work in a certain type of industry and you contract a certain type of disease, it is presumed that you contracted that disease in that industry. It is very simple for the Workers' Compensation Board to administer those claims. I believe a good deal of work is being done in Ontario right now in the area of occupational disease research and recommendations to the board. As the administrator of the Workers' Compensation Board, however, I would see my job as following the policies of the board of governors and the Legislature in the act, making sure that there are no holdups through the administration.

Mr Waters: How would you respond to the claim that you would tend to favour the injured worker over the employer?

Mr King: I do not know why I would tend to favour that. You would have to expand on your question, please.

Mr Waters: It is just that there was a perception, I guess from your background, being appointed by two NDP governments, that you would—

Mr King: My whole career has been spent as a third party. My initial work in government, I guess, began with the office of the worker advocate in Saskatchewan. I started that office, but just like any attorney, I do the job that is required of me. I set that office up in roughly one

year and moved on to become a disinterested third party, if you will. Had I been favouring one party or the other, I do not think you would have seen such unanimity in the report as we did in Manitoba. A three-member committee did a report. We had 178 recommendations. Industry signed 176 of them and labour signed 176 of them. There were two minorities each. I work within the confines and the direction given to me, and if I am working in a tripartite organization, I understand the need for consensus between industry and labour.

Mr Waters: If you can relieve some of the load going into my office, you are the man for the job. Thank you.

The Chair: Anyone else? The official opposition?

Mr McGuinty: Mr King, when I review the paper record, your curriculum vitae and Mr Di Santo's, I think the question that comes to my mind is, why is it that you are not applying for the position of chair?

Mr King: I did not know the position was open, quite frankly.

Mr McGuinty: Have you had an opportunity to meet with Mr Di Santo?

Mr King: I met him this morning at breakfast.

Mr McGuinty: It is probably unfair of me to ask you then whether you feel that you can work with, or for, Mr Di Santo. You do not know him that well?

Mr King: I talked to him once, possibly twice, on the telephone to offer congratulations and to set up a meeting, and I met him over breakfast this morning. I see no difficulty myself. Under the act, the vice-chair works under the general direction of the chairman, but the vice-chair works as well for the board of governors. It is the policies of the board of governors that the vice-chairman has to implement.

Mr McGuinty: With respect to the unfunded liability, you have indicated that was a major concern. Would you consider increasing premiums in order to address that?

Mr King: I do not see that as my option as the vice-chair of administration. My position would be to give advice, certainly, to the board of governors on the financial status of the board, and if I felt it necessary it would be my recommendation that the rates be raised, but ultimately it would be up to the board of directors as to whether they raised rates.

Mr McGuinty: I understand that, Mr King, but as a man of your experience, I think you would be called upon, quite rightly, to give advice, and in considering the kind of advice you would be giving, is that within the realm of the possible that you would recommend that premiums be increased?

Mr King: If one of the priorities of the Workers' Compensation Board was to reduce the unfunded liability, there are only two or three ways to do that: You reduce the accidents that occur, the frequency; you reduce the severity of the injuries, or how long people are on benefit; you cut the benefits to the injured workers; or you increase the revenues. Those are the only four ways to go about solving a financial problem, or I suppose there is a fifth way, if you expand the industrial base and are able to tax more, which means a growth in the economy.

If one of the priorities of the Workers' Compensation Board is to reduce that unfunded liability, I personally do not believe you should do so by cutting benefits. I do believe you can do so through reduced injuries, and that is one area I would like to see priority put upon. Second, I believe you can reduce costs by reducing the severity, through better rehabilitation and medical treatment, and quite frankly, service to injured workers, because if you get someone angry at you early on in the picture, he is going to stay angry at you in the more expensive claim. Finally, if those two do not work and the priority of the board is to reduce the unfunded liability, I would have to recommend an increase in rates.

Mr McGuinty: I am looking at a copy of an article here in the Winnipeg Free Press, Wednesday 3 August 1988. The title was, "Time for a WCB Strategy." It says in here:

"When Brian King was an inquiry commissioner examining the WCB, he wanted to increase the revenue by forcing coverage upon white-collar workers and others who would produce plenty of premium income and few claims."

I guess I should ask you in fairness, first of all, is this an accurate reflection of the views you held at the time, and second, do you still espouse that view today?

Mr King: I believe that was probably an editorial rather than a news article. That is first. Second, Manitoba is almost unique in Canadian workers' compensation in that none of the white-collar are covered under workers' compensation.

I did not put it down in the report as a recommendation as a way to increase revenues, I put it down as a recommendation, agreed to by my colleagues from industry and from labour, as a means of equity, of providing equal treatment to the employers and workers of the province within the Canadian workers' compensation milieu. Some people in the white-collar industries felt an encroachment upon their turf and presumably were influential enough to get an editorial in the Winnipeg paper saying that it was a money grab. I deny that, as would my colleagues on the review of workers' compensation.

Do I believe that white-collar workers should be covered? Of course they should be covered. Do I believe that white-collar should be taxed higher? It depends on the assessment system of the Workers' Compensation Board. There are many different kinds of assessment systems, starting with the unemployment insurance model where every employer pays the same amount, to some workers' compensation systems which have hundreds of categories of employers, all of which pay a different rate. I favour a somewhat middle model, which is a reduction in rates but some flattening out of the rates. In fact, we recommended a minimum rate so that you do not have your $20 accounts to make it worth your papers.

Mr McGuinty: I am wondering as well, with respect to your appearance before us today, did you have any discussions regarding your attendance before this committee relating to the kinds of questions we would be asking or the potential outcome of this—

1200

Mr King: Well, I phoned the clerk to ask what appearing before a legislative committee was and he said I would be asked perhaps—it had not been decided at that time—to appear and answer any questions about my views, but that is all I have been involved in concerning my appearance this morning.

Mr McGuinty: Those are my questions, thank you.

The Chair: Anything else? Mr Bradley, you have got about three minutes.

Mr Bradley: How many, three minutes? Do you consider that you have this job now?

Mr King: No, as a matter of fact I would await the deliberations of the committee before I undertook any role with the Workers' Compensation Board.

Mr Bradley: Are you aware that the committee has no power to reject your appointment by the government?

Mr King: No, I was not particularly aware of that, although I did read—I suppose it was impossible to miss some of the discussion that has been taking place in the media regarding certain appointments and whether or not they would go through, whether the committee approved them or not but I was not aware that a rejection by this committee would mean a rejection of me for the job. I do not know whether I would take the job if I was rejected by the committee.

Mr Stockwell: Don't worry about it.

Mr Bradley: You come to the committee then with the recommendation, I take it, of both the executive council, as they call it—cabinet, as we call it—and the Minister of Labour specifically, do you?

Mr King: I appeared before four people in the job interview and at the end of that time I received a call from I believe it was Carol Phillips, saying that the decision of the committee was to ask me to become the vice-chairman. That is all I know about the process of selection.

Mr Bradley: You may not be aware of the answer to this and I would understand if you were not. Were you the only applicant for this job who was considered by the government?

Mr King: No, I was not. I do know the answer to that, having run into one of the other applicants by chance in the hallway.

The Chair: Thanks very much, Mr King, for appearing here today and we wish you well.

PATRICK LAWLOR

The Chair: The next intended appointee, selected by the government party, Patrick Lawlor. Welcome to the committee, Mr Lawlor. It is good to see you back in the building.

Interjections.

The Chair: You have been selected for review by the government party, and I am just going to keep talking over all of this—you are used to this sort of thing—and ask, are there any members of the government party who would like to begin the questioning?

Mr Lawlor: May I have a brief statement, Mr Chairman, before you begin?

The Chair: All right, but it is difficult. I am going to have to reduce the time. I am trying to stick to this fairly rigidly and religiously. But if it is very brief indeed, go ahead.

Mr Lawlor: It will be very brief. Yes, I come again into the Legislative Building, a little strangely, to be quite frank. I have been away for 10 years. I think Jim Bradley is the only one who was a colleague at that time, and we got along splendidly, did we not, Jim?

Mr Bradley: I enjoyed your poetry.

Mr Lawlor: In any event, I was here for 14 years at the time. My work was largely in the field of legal matters. We only had two lawyers in the caucus at the time, Jim Renwick and myself, so it was heavily burdened, let me tell you. And then on occasion I did a reprise, a respite from that, and would become the critic of the Treasury and Economics portfolio and Charlie MacNaughton and people like that. I will not say any more at the moment.

Mr Waters: How would you see yourself as being capable of representing the larger community outside the university system? After 14 years as a legislator in public service, do you feel that would assist you in your new job—I guess is the way to put it, or prospective new job?

Mr Lawlor: I considered it, by the way, as a part-time job, not full-time as I understand it. In any event, yes, of course with one's exposure over a period of time as a politician, you identify with whatever. If you run a constituency office—and you all do, I am sure—again, you are constantly meeting people, listening to complaints, doing the best you can under the circumstances. That would be my answer.

Mr Waters: I was just wondering, because you are not a member of the university committee, how that would work for giving advice to the minister.

Mr Lawlor: No. That is true. This is direct advice, of course, this committee we are speaking of, the university affairs, in any event.

I just want to mention I have kept very close touch with the university community in the past, since I have left the House. I have taken innumerable courses at the university, let's put it that way, in theory of law mostly and in theology schools too, and just finished a course in macroeconomics theory over at Ryerson over the wintertime. There are half a dozen others, but I will not go into them.

Mr Waters: Just to save Chris the exercise, because Chris will ask anyway, you might as well state whether or not you have ever been active in any political party.

Mr Lawlor: Yes, I have.

Mr Wiseman: The amount of money that goes into the university system is quite large. However, we, especially those of us on the standing committee on finance and economic affairs, have been approached by both the students and the faculty of the universities saying that this is not enough, that there is an unfair burden being placed on students, that class sizes are too big, that by the year 2000 we will lose a tremendous number of our professors

with PHDs who are already in the system. Do you have any comments on any of that? Do you see any kind of a role for you in alleviating that scenario?

Mr Lawlor: I think we face a fairly, not just restrictive, but I would even say almost appalling prospect in that particular regard. A lot of people stick, in nuclear physics and in other fields where they could derive far better benefits by going south or by going elsewhere but nevertheless remain in Ontario out of a kind of loyalty. Northrop Frye could have taken over in another university, probably in Germany somewhere, because of his encyclopaedic knowledge and all that sort of thing, but he stopped. We have quite a number of people like that—a sense of loyalty.

As you say, every government, it goes without saying almost, requires more funds, and the university faculties certainly do require considerably more. The demands get greater every year. At one point $8 billion, I think, was going out in operating grants, quite apart from any capital expenditures. But capital expenditures have been severely cut back.

The university system, with this committee, has made the decision—it was made back in John Robarts's day—that there would be 15 Ontario universities and that is it. If there were going to be any more, or any more colleges of technology or whatever, they would not be able to establish independently. They would have to affiliate, is the term, with an existing university. There are all kinds of problems in that. Universities do not like to affiliate. Sometimes they cut fairly deeply into their funds.

But your question is directed to funding, and I think last year it was 4.8% or something like that against the previous year. But the demands, I say, even from the reading I have been able to do—and I went in to see Dr Nelles a week ago. He is the chairman of the committee. I did not know the gentleman, but he gave me a huge stack of material, which I have not been able to penetrate. I have got some distance with it, and I am terribly frustrated by the demands: new programs, new graduate studies, the role of the student grants.

And by the way, they operate according—and I have just learned this—to an almost mystical scale, the acronyms that are operative in the university sector, and elsewhere too, I quite agree, but I think they proliferate there. There are all these various initials, all supposed to be pronounceable in one way or another, that keep cropping up. For instance OCUA, the one that we are talking about today, has a large advisory committee of just professors. It is called AAC, and if you went on with this, you would make some strange noises, let me tell you.

1210

The Chair: Mr Wiseman, I would like to advise you that Mr Frankford also wished to ask a question. You have got about two and a half minutes.

Mr Wiseman: You ask yours. If I get another shot at it, I will come back.

Mr Frankford: I guess one of the questions would be that the aim of this is to improve accessibility to higher education and I can see that we are going to have tensions between an overall system and the ideas, often coming out of the University of Toronto, of world-class centres of excellence. I wonder if you would like to comment on dealing with that.

Mr Lawlor: Toronto, for instance, which is I suppose the major university, has status in the world, a very high status. Its funding, though, in terms of benefits, in terms of trust funds, etc, is somewhere about the 50th in the world. It does not have large sums of money on its own hook that have been left by estates and things like that. Harvard, for instance, has $400-and-some-odd-billion that is available to it, and just last year it went out to seek funds of another $1 billion simply because it was running short and needed to expand some of the faculties.

I think that with our Canadian attitude towards education, that is, not spreading it all over the horizon, not having schools where you teach cosmetics, something called cosmetology, etc, where you teach beekeeping at university level with a graduate course, any number of frippery departments—Ontario does not do that. I think I would be of some assistance in trying to restrict the spread of different departments and small departments within the university community, because there is always pressure for supposed new knowledge. I saw two years ago that 21 different new applications were made. That was for added funding for things that have not been taught before. That has to be scrutinized with the greatest care.

I do not think the Ontario universities rank, really, any one of them, at a high world level. I mean, the University of Berlin, the University of Louvain, Paris, these are the famous ones, although I think the education given at Toronto, if I may say so, from what I can discover, is probably better on the whole than the University of Oxford or even Cambridge. Oxford's literary emphasis and Cambridge with its scientific emphasis rank extremely high. But there is a kind of seminar system that operates there and if you are a very bright student and you enter into it avariciously almost, you come out with great aplomb and considerable education. But here the kind of concentrated study that we do and are required to do in seminars and in papers, over against the United States—and I do not want to be unnecessarily invidious, but a little invidious, thank you—over against the United States on the whole, our education system stacks very high in my opinion.

The Chair: We are going to move on. We are a couple of minutes over, actually. Does anyone in the official opposition have any questions? Mr Bradley.

Mr Bradley: My first question relates to the role of smaller universities in the province of Ontario. In the university community, there is a divergence of views on the role, for instance, that the University of Toronto or other major universities should play as opposed to the role of smaller universities such as Trent or Brock or Lakehead. Rather than be too specific in the question, would you have any thoughts on the role of the smaller university in the province?

Mr Lawlor: I am glad you asked that question. I was studying up last night.

The major paper done is 50 pages long; an analysis of the role of the smaller college-like, if you will, university,

something like Trent or Brock or what not. It restricts, perhaps, the science portfolio—science is enormously complicated. You people here know that there is a ranking system inside, how they allocate the funds. This goes back quite a few years and is called BIUs, basic income units.

For instance, in a school of nuclear physics, in the engineering and the upper parts, a rating of seven would be given. The base rating for a full-time, five-course student on the arts side is given as one. It is this way that the university feeds in their figures, etc, as to the number of BIUs. BIU represents, what, $3,500 or something like that. This is the way they allocate the funds. Very often the BIUs that come in, of course, far exceed the amount of money available to them and some sort of allocation has to be made.

There is a place for the small, independent university, but as I say, the number we have already and about—what, three or four of our universities—York and Toronto are big ones, of course and there is McMaster and Queen's—and Queen's is quite a bit down, the enrolments in each one of them. And when you get to Laurentian, Algoma College, for instance, last year had a special allocation of funds, $775,000 over and above anything else, in order not to have to close its doors. So you have to be very careful about the smaller universities. They may be more intimate, there may be a better rapport among the students, but basic facilities that a modern university has to supply are enormously costly.

I do not like the multi-university, either, the huge spreading thing. Toronto is too big, as far as I am concerned. There is no rapport. There is no conversation there. There are professors there who have never met one another, even perhaps professors in the same faculty who have never been introduced. I used to take courses over here and I know that the interrelationship between most in my field in philosophy, people over here at St Michael's College in philosophy, are not in very close correspondence with the people along the street a little further.

So on one side there is the collegiality aspect of this to be respected and retained, and that is why we do have to support the smaller ones, but I don't want to see any more come into being.

1220

Mr Bradley: The second question I would have relates to tuition fees and there is a bit of reference to the financing of education and so on. The universities almost consistently have requested that they be allowed to increase tuition fees, and governments, always mindful of the voting population, have been reluctant to do so. I guess the other motivation, which is a better motivation, is that they have wanted to maintain accessibility. I think the government just announced an 8% increase in tuition fees this year. How do you view the financing of education as it relates to tuition fees, and how would you view requests by universities to increase those tuition fees to, as they say, better reflect the reality that they face financially?

Mr Lawlor: May I approach this—I will not take too much time—from a distance just to get the picture?

The group that I am asked to sit on is a buffer group. It is a buffer group between government which has certain allocations of funds which are substantial, and particularly in restrictive times like this the funds are simply not available, and the universities which are private, all of them, autonomous, self-determining bodies which rely overwhelmingly—I mean the money they get from the private sector is peanuts—on public funds. So there has to be accountability while respecting the independence—a little like the law courts, and the judges—we treat them almost at arm's length you know; nevertheless they are wholly dependent upon the public purse to sustain them.

This body I am sitting on was invented to reach that type of allocation, and so they are interested in the whole spectrum. So they don't dictate, they can't dictate. They hold colloquies all the time with the presidents of the universities, and call special committees. The group that I am sitting on is not an expert bunch; they call experts in when they need them to advise, including advice on student fees. But I think the universities, being dependent on one side and yet autonomous on the other, ought not to be given a free hand to raise student fees to whatever level they feel necessary to serve their own purposes. They must live within guidelines too, and guidelines all along the line. You cannot escape guidelines by imposing an undue burden on a certain sector of the population. I do not think the universities are responsible in this regard. They are so crunched that they insist upon it.

Fees are going up. My daughter goes to the Ontario College of Art, and her fees—I know this because I have to pay them—went up about 8% or 9% last year. When you are getting fees of $1,200 to start with, it begins to be a weight.

The central doctrine of our whole educational system is accessibility, you are not excluded because you are poor or have not the wherewithal. You are not excluded from the Legislature, you are not excluded from the court, you are not excluded from education to make you competent in whatever it may be. Increasing fees can be, and very often is, an exclusionary measure, so I am very hesitant, reticent, about raising fees.

The Chair: Mr Lawlor, thank you for appearing here today and we wish—

Mr Wiseman: More questions.

The Chair: You have exceeded your time, I am sorry, by two minutes. You can ask them afterwards, though. We wish you well with your new responsibilities. Thanks again.

Mr Lawlor: Thank you, Bob.

The Chair: Before we adjourn, I want to remind all three caucuses that we would like to have the position papers, if you will, on the permanent standing order in to the clerk as quickly as possible for circulation to all members of the committee; we are under some time lines with respect to when we have to make our report to the Legislature. So I guess Mr Waters and Mr McGuinty and Mr Stockwell, we can try to get that back to the clerk as quickly as possible.

The committee adjourned at 1226.

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Wednesday 24 April 1991

Journal des débats (Hansard)

Le mercredi 24 avril 1991

Standing committee on government agencies

Appointments review

Appointments review process

Comité permanent des organismes gouvernementaux

Révision des nominations

Procédé de révision
des nominations

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 24 April 1991

The committee met at 1013 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: We have got a number of things to do this morning and hopefully we can move right along. We have the determination of the intended appointments that we reviewed last week, and we have up to one hour to discuss the appointees as they are indicated on your agenda. I think—we have done this in the past—we will stick with it where I will ask for individual motions in respect to each intended appointee.

Before we discuss it, I would like to have a motion on the floor concurring or to the contrary in respect to the appointment of Rev Lombardi to the Metro police services board.

Mr Silipo moves the appointment of Rev Lombardi to the Metro police services board.

Motion agreed to.

The Chair: Mr Waters moves the appointment of Laura Rowe to the Metro police services board.

Motion agreed to.

The Chair: Mr Wiseman moves our concurrence to the appointment of Odoardo Di Santo as director and chair of the Workers' Compensation Board.

Motion agreed to.

The Chair: Mr Frankford moves the appointment of the appointee selected by the third party for review, Brian King, as the director and vice-chair of the WCB.

Motion agreed to.

The Chair: Mr Silipo moves concurrence with the appointment of the appointee selected for review by the government party, Greg Burns, as a member of the police services board in the regional municipality of Waterloo.

Motion agreed to.

The Chair: Patrick Lawlor as a member of the Ontario Council on University Affairs, moved by Mr Hayes.

Motion agreed to.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

The Chair: All right. Now we have the next item of business, our consideration of the permanent order and our comments in respect to the temporary standing order and the way in which members of the committee feel the permanent standing order should be worded to impact the operations of the committee. I know Mr Silipo indicated that the government party has a proposal and the clerk has a submission which is being made jointly by the opposition parties in respect to this matter as well.

Mr Silipo: Our report is actually just in the process of being retyped and it should be coming down. I did not expect that we would get to this item so quickly. I will call and get it down as soon as I can.

The Chair: I know that members of both opposition parties have obviously had an opportunity to review the submission they have made. I am just wondering if anyone would like to comment in respect to the submission, highlight it for other members of the committee and make some comments for the record.

Mr Grandmaître: On the procedures?

The Chair: On the proposal from both the Conservatives and the Liberal Party.

Mr Grandmaître: Our people have felt from the very beginning that the process was flawed and that this committee was a rubber stamp to the—

Mrs Haslam: On a point of information, Mr Chairman: I would like to have a chance to read it. It is a rather large submission. I feel very badly that this has only come to me now. If it had come to me this morning or if I had had time to look over it, I would feel better about it, Mr Grandmaître. Obviously a lot of work went into this, and I would really like some time to look it over.

The Chair: I appreciate what you are saying, Mrs Haslam. I was just simply according Mr Grandmaître and perhaps Mr McLean the opportunity to make a few comments in respect to the submission and then we could start.

Mrs Haslam: Could we maybe recess for a while so I can read it? I would appreciate that.

The Chair: If you want to delay it until next week, the opposition parties are in the same situation with respect to your submission.

Mrs Haslam: Yes, except I did not remember ours being this thick. That is why I was kind of concerned. If it was a couple of pages, I would not have raised the point, but it is more than a couple of pages.

The Chair: I think it might be helpful for our consideration if everyone here, perhaps a spokesperson for each caucus, put some views on the record in respect of this submission being made and then we can review them: either take a break to do it or perhaps consider them and discuss it next week.

Mrs Haslam: That sounds fine. Thank you, Mr Chair.

Mr Grandmaître: Mr Chairman, may I suggest that I take three or four minutes and then my colleagues can add whatever comments they wish? Maybe we should be given 15 minutes, five minutes each, to comment on our report.

As I was saying, from the very beginning we thought that the procedures and processes were flawed. We think of ourselves as a rubber stamp to the Premier's recommendation or intended appointment. We read about these orders in

that characterizes the government, on this issue in particular, and I think that it is something we need to keep in mind.

So if people out there have the perception or the impression that in fact the process has been opened up and equally have the impression that this committee has an important role in this process, I suggest that is because both of those are true, and in fact we do as a committee have an important role to play in this process. How important is really up to us. And the process quite definitely has been opened up. It is not simply a perception; it is a reality, for the reasons that I have suggested and for others.

So obviously we do have a fundamental difference on some of those. The suggestions that we make are really much more in terms of tidying up some of the provisions of the guidelines or the terms of reference. They will come, I suppose, as no surprise to the opposition members, because they are essentially of things that we mentioned before, as indeed the things that we are seeing here in this report from the opposition parties are things that we have seen before.

So I suppose we have some fundamental differences of opinion, and that is fine. When we get to dealing with the issues in specifics, Mr Chair, then we will hopefully be able to have some give and take.

Quite frankly, there are a couple of things that we suggest in our paper that, having heard some of the comments, I would certainly be prepared to take a look at changing. We, for example, call in our position to try to tighten up some of the time lines. That is, quite frankly, simply based on our experience that we have not had to use up the time lines in the way, but if that is something that is a major concern, I do not think that is something we are going to be very wedded to in terms of maintaining.

But quite clearly, aside from those kinds of changes, we have some very major differences of opinion in terms of how we should be proceeding on this, and I guess they will get resolved as they will get resolved.

The Chair: I think the reality is that those differences have been there since day one and are simply not disappearing.

Mr Wiseman: I just wanted a little clarification on something that Mr McLean said about his local council having been asked to submit three names.

Mr McLean: I did not say three names.

Mr Wiseman: Or some names. Maybe you could clarify that for me so that I can understand better what your point is.

Mr McLean: I just read in the paper today that council had indicated it was so pleased to have the opportunity to submit names for somebody to serve on the police services commission.

Mr Wiseman: And yet this is different than it has been in the past. In the past somebody would just have been picked.

Mr McLean: But they do not know that it is pretty well all cut and dried anyway. That is not the perception out there.

Mr Wiseman: That obviously is not the reality, or why would we bother asking for three names or more names?

Mr McLean: As far as I am concerned, they are going through a process, and probably a name that the council member knows, who is involved with the government, will know who it wants and will make sure that is one of the names that is submitted. That name will be picked and all the rest will be anticipating getting that and there will not be any reality to it.

Mr McGuinty: Something that we did not raise earlier and which I think is a significant recommendation—I just want to draw it to the government members' attention—was the reference in here to the preappointments process, the deficiencies we see there and the recommendations contained in the Macaulay report.

1040

I think the recommendation there that a council for administrative agencies be established is a very good one. I think we all like to think on a regular basis that we are impartial and non-partisan, but notwithstanding that, I think it is impossible not to inject some of that into everything we do. Here we have the benefit of a report that is impartial and recommends that we remove this appointments process from the Premier's office. I think we also make reference to an example that has been in place for some time now, which has worked very well, and that is our advisory committee on judicial appointments. There was an ongoing concern about appointments to the judiciary being patronage appointments, and it had been abused at times in the past. I do not think there was any doubt about that. But the advisory committee on judicial appointments has effectively curtailed all those concerns.

Mr Wiseman: Not really.

Mr McGuinty: It has implemented a program whereby there is public advertising for appointments to the judiciary. The public is involved on the committee and it has been removed effectively from the hands of politicians. That is something that I hope the government members give serious consideration to.

Mr Wiseman: That has not happened at all. There have been patronage appointments done at the level of justice of the peace, and that has continued even up until before we came into government. I can name names if you wish, but I will not here. Patronage appointments have been made even with the existence of this council, names that have not had the opportunity to be vetted even in a process such as this.

So to make that statement with me knowing in my own area who the political and patronage appointments have been, I cannot allow that to go unchallenged.

Mr Grandmaître: Mr Chairman, we are not saying it does not exist and never will exist. We are politicians. We know what patronage is all about and what appointments are all about. But to give the impression that this committee will turn the world around and we will have only great appointments in the province of Ontario, I think we are leading the public down the garden path. It will never happen. Never.

I think the Premier has a responsibility and he should take that responsibility. He should not slough it off on this committee to become a rubber stamp and say, "Well, you have approved it." I think this is totally wrong. I think the Premier has a responsibility; he should take it and that is it, be criticized or be applauded for it. But do not slough it off on this committee. It is very unfair for the appointees and very unfair for the members of this committee.

Mr McGuinty: I take Mr Wiseman's point well. However, he is mistaken. A justice of the peace is not a judge and is not covered and is not followed in the ambit of the advisory committee on judicial appointments. He has raised a concern about justices of the peace who are not covered by that committee, and I do not think that says anything wrong about the process that was created and is used by that advisory committee. I think what it does say is perhaps that it ought to be broadened so that its scope does cover justices of the peace. That is all that means.

Mr Hayes: I think the thing that makes this committee or this process differ from the past is that—and members have indicated this—the Premier or the cabinet just automatically appointed people and nobody had any say or there was no review. The one thing this committee does do is open the process up for anybody who can walk in this room and listen to the review and meet that person, and the media have the right to come in. This has never happened in the past and I think that is very important. To hear the other members in the opposition on this report talk, what I am getting from them is, "Just let the Premier go ahead and make appointments and report them in the House or whatever," and you do not want to have any involvement in that process. That is what I am hearing. Am I hearing it wrong?

As far as the issue about advertising in the paper for councils to submit names, I think that is most appropriate and open. I think if I were sitting on a municipal council and I had someone that I felt was very good for a job in some kind of government agency, I would certainly be recommending that individual, and I do not see anything wrong with that process at all.

Just on the one part here about ensuring public access to all details of appointments by peeling away some of the secrecy surrounding the process, I think that is more fair than anything that has happened in the past. Patronage—sometimes we are going to get that, but we are willing to sit here and listen to people who are not necessarily of our political affiliation.

Interjection: Andy Brandt.

Mr Hayes: Yes. I think a good example of that is a competent person like Andy Brandt, who came from the Conservative Party. Now of course I have seen people sit here, and that was not the problem when Andy was here. And I respect him too, but it was fine at that time. But then when you get someone who you think may be affiliated or slanted towards the NDP government, then it becomes a problem, and I do not think that is very fair either, Mr Chairman.

The Chair: Thanks, Mr Hayes. I was going to say a few minutes ago, as an observer of the discussions that have taken place over the past few months since this process has been put in place, I think it is clear where the lines have been drawn for some time and I think that is reflected in the dissenting opinion. I am assuming the positions taken by government members over the past number of months are going to be reflected in the submission we receive from the government.

There may be a couple of areas in both reports that are quite similar in respect to some of the changes that all parties would like to see occur. I think the reality, though, is that when we table the report in the House—maybe I am being too presumptuous here, but I think that based on the discussions that have taken place in the past and what we have heard here this morning, we are going to see a dissenting opinion included as part of that report to the House. I think we have to face that fact.

I think we want to have this discussion and certainly put our views on the record once more. I think, as well, we want to take the time over the next week, when we have the government submission, and give the government members as well more time to absorb the recommendations made by the two opposition parties, and once again next week put our views on the record whether there is any room for significant change so we have one report coming out of this committee. I am personally pretty dubious about it, but I just wanted to say that as a contribution to the discussion.

Mr Grandmaître: Mr Chair, I do not mind seeing our joint report being criticized. I think you are absolutely right. I think we should give the members of the government an opportunity to look at our recommendations, but at the same time I would like to see a copy of their own recommendations. How can they improve the procedures of this committee? We have not seen any of your recommendations, Mr Silipo, and I would be very interested. Maybe we could work out something between our recommendations and yours, but we have not seen your report.

Mr Silipo: It is on its way.

Mr Grandmaître: I know it is on its way.

Mr McLean: Mr Chairman, we are playing games here this morning. We came here and there are supposed to be reports from both. The spokesperson for the government side is saying, "Well the report is coming." They should have been up front with it. We are sitting here playing games and I move that we adjourn. There is no point in spending any more time fooling around here with this conference.

Mr Stockwell: Why do we not adjourn until the report gets here?

The Chair: Actually, a motion for adjournment is on the floor. That is not debatable. If we are going to adjourn, is there any point in coming back, or should all three parties take the next few days to review the reports and have our research people review the reports, and come back prepared to discuss it next week and file it?

Mr Silipo: Sure, but let me just put it on the record. If people want to make an issue out of the fact that our report is not here, they can make an issue out of it. Quite frankly, we had an agenda that was set for this morning. I did not expect that we would get to this item at least until 11 o'clock,

so I gave my secretary this morning the last final changes to be made and typed and brought down. That is all there is to it. If you want to make more of that you can make more of that, but that is the way it is.

The Chair: Mr Silipo, if you can have your staff get the reports to the clerk as quickly as possible, he can ensure that they are circulated. One of the things that perhaps we do not have to do until next week when we finalize whatever report we are going to finalize, quite probably with a dissenting opinion, is to have whatever we are tabling in the House vetted by the procedural clerk—the correct wording, the people who drafted the temporary standing order—to ensure that what we are doing is procedurally correct before we table it in the House. I do not think anybody has any difficulty with that.

Okay, we will adjourn and meet again next week.

The committee adjourned at 1051.

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Wednesday 1 May 1991

Journal des débats (Hansard)

Le mercredi 1 mai 1991

Standing committee on government agencies

Appointments review

Comité permanent des organismes gouvernementaux

Révision des nominations

Chair: Robert W. Runciman
Clerk: Douglas Arnott

Président : Robert W. Runciman
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 1 May 1991

The committee met at 1049 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of the appointments review process.

The Acting Chair (Mr Wiseman): As temporary Chair, I call this meeting to order. To begin, would Mr Silipo like to lead off?

Mr Silipo: Mr Chairman, I do not know whether to. I guess we should decide whether we want to bother continuing having the meeting. I am a little perturbed that the Conservative members are not here after the fuss that was made last week about us not being here and ready to go with the discussion. We have waited 50 minutes now for the meeting to start and neither the Chair of the committee nor any of the other members of the Conservative caucus are here.

On the one hand, I almost feel like proceeding and just getting the discussion done. On the other hand, I do not want us to do it and then have to redo it because the members of the Conservative caucus are not here. I guess I am looking over to the Liberal members to see what the sense is from them.

Mr Grandmaître: Mr Chair, I feel the same way. I think we should wait for our Tory friends. When can we meet again?

The Acting Chair: The only time allocated for this committee hearing is from 10 till noon on Wednesday mornings. To get another time, I believe you would have to have special permission from the whips.

Mr Waters: We are also running into a deadline here. We have a report that has to go back to the House on 16 May, and if we postpone another week I am concerned about the deadline as well.

Mr Bradley: Does anyone know if this is an official boycott on the part of the Conservative Party or whether they have another meeting?

The Acting Chair: Here they are.

The Chair: My apologies.

Mrs Haslam: We are on page 12 of the recommendations. We have been having a wonderful time.

The Chair: Shocking. Did someone have the floor?

Mr Waters: Really, we were discussing what we were going to do about sitting; whether you were coming or not.

The Chair: The meeting had not begun. So you were just pulling my leg.

Mr Waters: We were just discussing whether we were going to proceed or what.

The Chair: All right. I will officially call the meeting to order and once again offer my apologies. There were other matters requiring my presence.

Mr Grandmaître: We did not have a chance to go over your report at the last meeting. Is it possible for the whip to go through this report or their report?

Mr Silipo: I would be happy to, Mr Chair. We just note that this morning we have also passed out another report which I think fleshes out some of our responses to the position that was put forward by the opposition members.

I think essentially our position is that, in reviewing the guidelines, we need to keep in mind that there is a clear relationship between our role in reviewing the intended appointees and the role that we have in reviewing agencies. It seems to us that we have sort of forgotten a little bit about that, and we would like to look at how those two responsibilities can be brought closer together. We have not gotten through all of that stuff in detail, but I think there are certainly a number of ways that we could be ensuring that in fact both parts of the committee's work continues to be done.

I take it from the reviews we have done or begun that in fact there is still some outstanding work that needs to be done. So if we can just clean up those, we still need to go back and do some work.

Essentially, the fundamental difference of opinion that has been there, I suspect, since the beginning is certainly still there in that we see that the role of the committee with respect to intended appointees is to review those appointments and not to have the committee placed in a situation where we are in effect reinterviewing from a list of people. What we are doing is reviewing an intended appointment that has been made by the minister or the Premier as the case may be. Therefore, that guides all of our entire view in terms of changes that need to be made.

Again we underscore that in making appointments to agencies, boards or commissions, the government may very clearly be exercising its prerogative to use that process in a way that tries to achieve legitimate governmental policy. Again, that underscores that this is a role we think is legitimate. It is certainly a role that has been there historically and that we think needs to continue. The government never intended to give up that power of appointment, but significant changes have been made in the review process and the fact that the review process exists, I think, has led to the opening up of the process, both in terms of what happens long before the names get to this committee—because if people know that the individuals being suggested for appointment are subject to public scrutiny, that obviously ensures, in and of itself, that the process that is followed is as sterile as can be to ensure the very best person is put forward.

Obviously, even prior to that, with respect to what has been happening as far as making the various positions and information about the various positions not only available but accessible to the public through the binders that list the various positions and the various agencies, boards and commissions being put together and being made available

through the public libraries and the members' constituency offices, I think that is another indication of the government's desire and intent to open up the process much more than has ever existed in the past.

In terms of what happens when the individuals come before the committee, I know that the question of the veto is one on which the members opposite have continued to state a very strong position on. I guess our position is equally clear, that we do not believe we need to add that power of veto, because we think it is the appropriate balance between the right of the government to make those appointments and the right of this committee to review and make a determination on those appointments.

It is true that we have never yet been in the situation where we as a committee have voted against any of the intended appointees. My guess is that if that day were to come, and there is no reason to think it may not come one day, the Premier and/or the ministers involved would be hard-pressed to proceed with an appointment which had been objected to by this committee. That in turn, according to the rules, would be interpreted as being also the position of the Legislature as a whole. The power exists there without having to be written as a veto, because I think in writing it as a veto you are removing that power from the government and I do not think the intention should be to do that.

We make a number of suggested changes which we think will tidy up the process. They certainly are not major ones and, as I say, we hope we can get agreement on those. The second change we suggest in there with respect to time limitations; we are quite open to some discussion on that because we certainly do not want people to think there is any attempt to try to reduce the time lines there. That is based more on the kind of experiences we have had. That will be subject to whatever the members opposite have to say about that.

So far the process has worked within the time lines reasonably well. We have got some problems we need to iron out but, aside from the major differences of opinion which clearly are still there, within the scope of the mandate that the committee's work functions, I think the guidelines, while there can certainly be some amendments and some improvements, essentially are working. We also have some of the changes that the opposition members have suggested. Some of those we will be supporting as we go through, those that tend to improve the process within the understanding of the process as it is now. Obviously we will not support some of the major changes that have been suggested for the reasons that we set out.

The question of calling witnesses is again one of the significant changes being suggested, and for the reasons that we outlined we are not able to support that. We think it would change the process substantially into one that has the potential for becoming somewhat inquisitorial. We do not think it is appropriate for that to happen. Even with the safeguards that I acknowledge the opposition members have suggested to that part, our sense at this point is that it is not appropriate to do that.

1100

As for some of the other changes that have been suggested in terms of the Macaulay report proposals and others, our view on those is that they are things that require some further thinking. As we note in the report, our understanding is that report is being looked at now within the Ministry of the Attorney General and within Management Board and we suspect that something will come out of that. Again, it is something we need to turn our minds to as a committee in the future, but we would not be prepared to do that at this point.

Those are essentially the main points, as I say, they made. There will be a number of other things as we go through that we can comment on, and other members as well.

There is one other thing I want to say. I was a bit troubled following last week's meeting to discover that the opposition members had gone from this committee directly to a press conference. I am not troubled about that; I mean, it is obviously the right of anybody to do that. But I was troubled about the impression I was left with by the members' office that they had all come here ready to discuss the proposals last week and, because we did not have our proposal ready at the beginning of the meeting, that somehow that caused the discussion not to happen. It seems to me that the reality of things was more that the press conference, which was set up for 11 o'clock that morning, when the meeting here started at 10 o'clock—unless I am wrong about those times, it indicated to me that there was really never any intention to get into a serious discussion of the guidelines and changes last week.

I think people need to be a little clearer about that. If people were coming here ready to discuss the proposals, it clearly was not going to happen in an hour's time. I just caution my friends opposite and ask that if people are going to be seen to be acting with a sense of integrity that we be aboveboard about those kinds of things, because it just adds to the kinds of divisions we do not need. We can all agree to disagree and do it in as honourable a way as we can without having to impute motives or other things.

Mr Grandmaître: On questioning the integrity of the opposition or the members of my party, I can assure the government people that this was not the intention of our press conference. We knew exactly where we stood—at least three of us knew where we stood as far as changes or proposed changes to the process were concerned. When we discussed the possibility of some changes, you were opposed to most of ours, as you pointed out. You were opposed to most of our proposed amendments. I just want to point out that we went on the premise that you would not change any of the terms of reference of this committee, or very little. Again, you pointed out this morning that no, you are not willing to move on—maybe time limitation; we all agree that we need more time. Third-party intervention: you do not agree. Veto power: you do not agree, even the balance of this committee.

We felt that because the government members do have a majority, we will continue to operate under very deficient terms of reference. As pointed out by Mr Bradley, we never give up. We do not intend to leave this committee, but you are making it very difficult to operate in a small-l liberal way. Going through your response to our recommendations, I think it is very obvious that you feel very few changes are needed, and we find it very difficult to operate under these conditions.

We even offered that the Premier make his own appointments. Never mind this committee—make his own appointments. I think that is showing some confidence in the leader of this government. Go ahead and do your appointments. I know you people do not want to go back to the old ways, because you had a tendency to believe that all Premiers in the past were unjust, using patronage as a tool. I am still offering that the Premier go ahead with his appointments and live by them and not use this committee as a rubber stamp, because I think we can all use our time in a better way than to simply sit around and rubber-stamp the intended—I love the word "intended" appointee, especially when you get a copy of the OIC signed by the Premier. I simply do not buy this. I think we are being told, "This is my choice."

Mr Silipo has pointed out that members of the government were never placed in a situation where they had to vote against a candidate because of the great quality of those candidates. Well, I question the quality of some candidates. I would say that maybe 75% or 80% of the candidates who appeared before this committee were good people. They were all good people, but I think the Premier's office or the Premier's people should have done a better job in researching and should have provided us with a possible choice of maybe three candidates and then we could make a recommendation.

I know this would extend the process and would be time-consuming, but you people want to prove that in the past not only my government but previous governments used this patronage tool, and I do not buy it. I still say it is a patronage tool. I will maintain that we are being used as rubber stamps, and I do not like it. I think my colleagues are prepared to continue to sit in this very unfavourable atmosphere. We will continue to be responsible, but you are making it very difficult for us to be fully objective.

Mr Bradley: I do not say this in a necessarily critical way, just in a matter of fact way, but I found the response a highly partisan assessment of opposition motives and so on. That is the nature of the game, but this is questioning the motives of the opposition in as narrow a partisan way as I have seen. That is fine. I have been around this place long enough to see that happen and I accept that is part of the process.

The fact is that you are not going to change, that this is not a meaningful exercise we go through. It is an exercise, but no substantial changes are going to be made. To portray this to the public and to others as a significant shift from what has existed in the past I think would be to misrepresent reality, and our concern consistently has been the gap between perception that you attempt to create as a government and reality.

Some members of the committee on the government side, in fairness, have not attempted to create that perception out there. They have recognized the terms we work within and have characterized it as an improvement but not a drastic improvement. I guess my annoyance is that you try to portray it as opening up the process in a very meaningful way. The crack in the door is open, and that is certainly fine, but it is not a meaningful change. It is not the kind of change I think people contemplated when they listened to the now Premier and members of the now governing party in opposition and during election campaigns about making some substantial differences.

1110

The fact of the matter is that the overwhelming majority of people the government is going to appoint—I do not, again, say this in a particularly critical way—are going to be friends of the New Democrats or New Democrats. They are the government, that is the process, and I suppose one can say that is the way it has been for a number of years. To the winner goes the spoils, to that extent.

I know the government will want to appoint good people because bad appointments will reflect badly upon the government; they will be looking for New Democrats and people sympathetic to the government point of view on issues, but at the same time I have no doubt they will want to look for people who are not going to embarrass them. The only advantage this committee has is the opportunity from time to time, on a very limited basis, to interview a few people, and even those restrictions are difficult. That is the only advantage I see of this particular role of this committee at this time.

It is disappointing though not surprising, frankly, to see that the government members, upon instructions of the Premier's office, no doubt, and their own personal feelings—but certainly those personal feelings would not likely be contrary to the Premier's office—are not prepared to concede to opposition parties any significant powers. This is not going to be taken out of the realm of partisan politics, and that is fine as long as we know that is the way it is going to be. I do not think people can be overly critical of the government for that unless they are people who listened to what the government said in opposition and during the campaign. Maybe, as with so many things, once the party assumes the role of government it changes its mind when it has, as one minister said yesterday, the facts available to it now, although we know the facts are often available in opposition as well.

So it is a disappointing day. I am not going to pound my fist on the table or anything because I am not particularly exercised or surprised by it. Perhaps some who have written that this committee has the power to veto will now understand the committee does not have the power to veto and it does not have the virtue over the federal committee that some thought it had. We will recognize that we are going to have everybody approved by the committee who is proposed by the government, unless there is an extreme circumstance; I do not want to rule out entirely that there might be an extreme circumstance, but there would be hell to pay for government members who voted against a government appointee. It is more likely that members of the committee will tell the Premier's office they would find it difficult to support a particular person before it got to the final vote of the committee, rather than the other way around. I suspect that might be the case and, again, that may be of some benefit in the whole process of things.

I know some people have felt that the American system should be looked at. We are very often critical of Americans because we Canadians like to think our system of government is superior to theirs. One of the exercises they go through which is rather interesting is the appointment

exercise, the interviewing of people, the calling of witnesses. It has its advantages and its disadvantages, but that is what I call an open system. This government is not prepared to move to that kind of open system, where there would be third-party intervention and comments. I understand the reasons they have put forward, that they do not want anybody to be embarrassed or they do not want to scare away good applicants. That argument can be made on many occasions, I suppose. It can be made when you are electing people to public office; maybe a lot of people who would run for public office would not want to be subject to the kind of scrutiny they would get during a campaign or as elected members or perhaps just as people thinking about running for a public office, so they do not run. That is the nature of the system.

But what the government is saying in its response to the opposition is that it is neither prepared to open the process more than it is at this point in time, nor is it prepared to make this a multipartisan exercise. I do not think one can ever really say non-partisan; that is stretching it a bit, and I do not think there is much credibility when you suggest that. It is going to be within the realm and domain of the NDP government to make its appointments, to have a majority in the committee and to ensure that the people it wants appointed are appointed.

The one advantage that will be left to all of us in this committee, particularly in this case the opposition, will be the opportunity from time to time to interview the odd potential applicant. That is a very minor step forward and not what I expected when I listened to my opponents during the election campaign, and my friends in opposition over the years talked about how they would really improve the process.

Mr Stockwell: I would echo a lot of the statements that were made by the Liberals. I too, frankly, am astounded that this is the NDP's answer to an open and aboveboard process for vetting government appointments. When you ran in the election, I do not think this is what the NDP backbenchers considered to be an open process for vetting appointments. It is far from open, considering the fact that you get told who is getting the appointment, and you can bother interviewing them or not. The members of the NDP will vote for that person, and that is the way it goes.

It is very frustrating listening to the pap you hear on the campaign trail about being open, fair and accessible, and then seeing the charade that takes place once the open, fair and accessible government gets elected. I do not really think the old process is that terrible. I think if you are going to be the government, make your appointments. Whether you are a Conservative or a Liberal or an NDP government, there are clearly people you choose to appoint who carry your ideas forward.

Let's be clear: The people they have appointed I would never have appointed. They are not carrying my ideas forward; they are not carrying forward the ideas of the people who voted for me. They are carrying your ideas forward; they are people who voted for you, and it is supposed to be non-partisan.

My goodness, if you took some of these appointments back to Etobicoke and asked, "Do you think these are good appointments?" I think you could probably find 2,000 or 3,000 appointments they would prefer over the ones they have made.

"Non-partisan appointments" is laughable. The argument that is made is that through this process we can vet them and turn them down. As I said in the beginning, I could believe that if it ever happened. I suppose the argument will be made that nothing is impossible, that miracles happen and so on and so forth, but until I see it I am not going to believe it.

We are left with the predicament of sitting around—I do not think it is just myself and our party wasting our time; I think the Liberals are wasting their time and I think the backbenchers for the NDP are wasting their time as well—playing out this charade at excessive cost to the taxpayers on a weekly basis, pretending there is some kind of open and accessible process, pretending that the people who come here do not honestly believe they will be the appointment.

I would like to get back to what this committee did originally: vet government agencies. They have been doing that for some years, and it was clear that most parties were prepared to continue and thought it was a worthwhile exercise. I think it probably was a worthwhile exercise, and I would feel more productive, certainly, as an opposition member, in vetting the agencies and examining expenditures and the processes, whatever takes place in those government agencies. I think it would be a healthy use of taxpayers' money and our time.

I do not think I am the only one who feels this must be a waste of time. Surely there is someone on the government side who feels we are wasting our time as well. Even the questioning from the government members is like three-pitch baseball. The ball has to go over the person's head before they can swing, and that is about how difficult the questions are that come from the government side. I think that is indicative. I am not arguing with you. I think you have the right to do what you are doing, and I wish you would. I wish you would just do it and quit wasting our time and the taxpayers' time going through this NDP charade.

I guess the reason you feel compelled to do this is because during the campaign you said you would do it. I do not know why that bothers you, because you said during the campaign that you would do a lot of things you are not doing, so why do we not just add this to the list?

If we are going to continue this process, I do not think our party will participate. If we are going to go back to the government agency process, then we will obviously participate. If they change it to what I feel to be acceptable, then we will come back and go through this interview process, but I do not buy into their report. It does not change it at all, in my opinion, and the minor changes they make are like putting a comma in certain places in the report and suggesting we have made some dramatic changes to the report itself.

So we are choosing to opt out, and if they want to go back to some serious reviews, then we will consider coming back. When they interview government agencies, a process that I think is far more worth while than this charade we are going through now, we will continue in that.

1120

Mr McGuinty: I can sum it up by saying the emperor has no clothes. I have reviewed the report briefly here, the most recent one submitted by the government members. I think one of the most significant statements in it is that there is an open acknowledgement here: "The appointments process is neither neutral nor non-partisan." The government's thinking may have evolved to the point where it is now prepared to accept that. I think we should recognize that what this means is that we are no longer after the best person for the job, objectively speaking. We are now recognizing that the appointments process is neither neutral nor non-partisan—your words.

Our business is politics and, integral to that, our system of democracy is partisanship. There is a good sense and a bad sense to partisanship, and I think, personally, that the jury is still out on this issue of partisan appointments, something you were advocating here. In any event, as we are no longer after the best person for the job and the appointments process is neither neutral nor non-partisan, to use your words, the process really is not open. We really do not have the tools to review these appointments. The process effectively provides that the Premier is going to select an intended appointee. We may or may not ask questions of that appointee, and that is it.

Perhaps the most telling indicator in this report is the government's refusal to allow us the power of veto. We have been emasculated. I should not use that term; that is sexist, I guess. But we have no power whatsoever. This committee as a whole has no power—and I think the government members in particular should recognize that—to veto an intended appointment for someone who comes before us.

I am attracted to some of the things Mr Stockwell said. We are doing a disservice to the public in terms of the kind of dollars going into supporting our attendance at the reviews of these appointments. Our time would be much better spent fulfilling the original mandate of this committee, dealing with agencies, boards and commissions.

I think the Premier should just grab the bull by the horns. If his intention is to make appointments of persons supportive of his policies, that there is a large collection of thinkers who believe that that is appropriate, he should just say he is going to do that and do it. Otherwise, as I say, the emperor has no clothes. We are without the means to properly review these appointments, and I think we should move on to the original mandate of the committee.

Mr Silipo: I am a little troubled about the sense that I think is being created that somehow, all of a sudden, we have admitted that the process is partisan. I think it is worth while to remind people that the conclusion that the process was supposed to be completely non-partisan was something the opposition members reached on their own.

There is a very clear distinction in my mind between a process that is open and a process that is non-partisan. I think there was always every full intention on the part of the government to open up the process, and I think that has been done in a very substantial way. I believe that very sincerely.

However, I also think we have acknowledged right from the beginning in our brief that it is our view that in making the appointments we need to recognize that the government may very well be using that power of appointment to carry forward its agenda. That is partisan. That is what it is. I do not think we create targets, making them up as we go along so we have something to shoot at. It is quite inappropriate and incorrect.

There are many more things, I suppose, one could go into in terms of the details. I do not know where we go from here in dealing with the changes, but certainly we believe very strongly that the process as it is now is much more open than it ever was in the past, and we think for that reason that there are some very significant improvements that have been made which neither of the previous governments ever contemplated or, if they were contemplated, ever put in place.

The process is much more open in that sense. People can criticize it and say that it does not devolve the responsibilities from the government to the committee. It does not do that, but it was never intended to do that. It was intended to make the process more open, more accessible, much more subject to public scrutiny. That it has done and that it is doing, retaining still the responsibility the government has to make appointments.

Mr Wiseman: I would like to pick up on that, because I think it does a disservice to the public to make appointments behind closed doors and not to allow them to be publicized the way Mr Stockwell has suggested it should be returned to.

In the past, there have been many appointments made that nobody ever knew anything about. At least in this process people are coming before this committee. The press is free to come, the public is free to come, and they are free to come and find out who is being appointed to the boards and agencies that have an important role to play in the lives they are leading.

To return to the Premier-directed appointments with no scrutiny, that Mr Stockwell is suggesting and the Conservative Party is endorsing, I find to be completely unacceptable given the comments that Mr Holtmann made when he was here. He said that in some ways the process we are undergoing here is even better than the process they are undergoing in Ottawa. I find it somewhat interesting that the federal Conservative Party, while admitting that its process is not perfect, at least admits that the process should be in place and that appointees should be vetted. I do not think I could ever support the notion that we go behind closed doors and allow the Premier to make appointments without having some view of them.

I think there is a very good educational aspect to this whole process as well, so that the public has access to the information and has a greater and better understanding of some of the boards and agencies they will deal with on a daily basis. For a lot of my constituents, the fact that we could talk to the appointments to the Workers' Compensation Board was a very big plus. They understand better what the whole process is about, especially those workers who are injured and need assistance from that particular agency.

I think this notion that we should return to the days when the Premier made appointments and no one knew what was going on is unacceptable.

Mr Bradley: Your review of history is not quite accurate there, but I will not argue it.

Mr Wiseman: The other aspect of this process which I find to be very encouraging is the publication of the books that will be forthcoming and put in libraries so that everybody can have access to them.

1130

Mr Bradley: It is not a major change. I do not see the fuss, but I am not going to lose any sleep over it. Why do you pretend it is? Why do you make up like this was a big secret thing before? People knew before. There was a lot of consultation with opposition members, etc.

The Chair: I am going to jump in here, because I want to—

Interjection.

The Chair: Order, please. The fact is that over the past several months all three parties have all had the opportunity to put their views on the record on numerous occasions in respect to the process. Maybe I am not being fair to everyone today, and I am sure if I am not you will let me know, but I think we have heard in essence a reiteration of positions essentially, and I am not persuaded that anyone's position is going to change, but this process, this deliberation, gives us an opportunity to once again put the positions of our various parties on the record and I think that this in essence is about all it is going to accomplish.

Again, I could be dead wrong on that one but, given the time requirements of the House in respect to coming back with a report, we have intended appointees scheduled for next week, and I guess in terms of assisting the clerk in meeting those time lines I suggest that we agree to perhaps disagree and that we go forward in directing the clerk to prepare a report, which obviously is going to contain a dissenting opinion prepared by the opposition parties. In essence we are going to have a report that he can, through his offices, prepare for review prior to tabling, which is going to incorporate the recommendations of the government party plus the dissenting opinion of the two opposition parties, and that is the report that would be tabled in the House. That is how I see it flowing. Does the clerk have any comment or observation on that process as I have outlined it?

Clerk of the Committee: That seems fine.

Mr Silipo: That could be done, Mr Chair, recognizing that they are not on major issues, but there are certainly some issues where there is agreement, if we want to go through those.

The Chair: I think we can incorporate that in the report, acknowledge that there are areas, in terms of both the positions that are being contained in the report, some modest areas, if you will, of agreement, and those can be highlighted as part of the report. I think that should not be a problem. But I think if we want to get into the nitty-gritty of trying to consolidate those views in respect to breaking the report down, that is going to be difficult to do.

Mr Silipo: Okay, that is fine.

The Chair: Any further comments or suggestions on how we are going to approach it? Do we have consensus in respect to that approach? The report will be prepared by the clerk, circulated to all members, and then we can finalize it with a vote whenever that report is prepared and provided to all of us? Okay? Fine.

Anything else we should be dealing with before we adjourn?

Mr Silipo: It is interesting that, although I suppose we came at it from different perspectives, in the comments from the three parties there was agreement that we wanted to focus more attention than perhaps we had been on the review of government agencies, boards and commissions. I think given that there is at least that agreement, it would be useful to also look at that and to see where we are with the ones that are in progress and what we need to do to finalize those and then perhaps look at what additional ones are remaining to do. I presume that means through the subcommittee, Mr Chair. I do not know.

The Chair: Yes. We can have an update from the clerk to the subcommittee and we can report back to the committee in respect to that. I think that is perhaps a useful addition to the report, since we do have agreement that I think there is concern being expressed by all three parties that perhaps that area, the original mandate of the committee, is being neglected.

Mr Grandmaître: Absolutely. My question was, when will this committee be able to meet with our agencies?

The Chair: As Mr Silipo suggested, and it is an appropriate one, we will take that to the subcommittee as soon as possible and review the status in respect to some of the committees that we have looked at and have not finalized and what else is out there that we want to look at in the very near future. Mr Bradley?

Mr Bradley: Just to express a dissenting view here from what appears to be a majority view, though I see the limitations of what we are doing under the rules that we have—personally expressed, only a personal point of view—I do not believe that I see a necessity to head after that many agencies at the expense of the other. I understand the feeling of disappointment in dealing with the other; some of my colleagues have their own views, but I hope that there will still be an opportunity when the appropriate occasion arises to interview people who come before the committee, even on the very limited basis that we can.

The Chair: I think the indication was simply an expression of concern that all the focus of this committee in the last period of time was sorely in want of balance.

Mr Bradley: Yes, I understand that.

Mr Silipo: In fact, Mr Chair, we do have at least one, if not two lists—I guess one; there will be a second one presumably out of today—that the subcommittee will need to take a look at in terms of possible reviews.

The Chair: Okay.

Mr Bradley: Just do not close any doors, Mr Wiseman, to potential opportunities. Let's put it that way.

The Chair: Let's make sure we do not open another can of worms and I will adjourn the meeting.

The committee adjourned at 1137.

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Appointments review process

Appointments review

Assemblée législative de l'Ontario

Première session, 35e législature

Journal des débats (Hansard)

Le mercredi 8 mai 1991

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 8 May 1991

The committee met at 1008 in room 228.

APPOINTMENTS REVIEW PROCESS

Resuming consideration of the appointments review process.

The Chair: I am going to call the meeting to order. You all have your agendas before you. The first item of business is, as indicated, to resume consideration in respect to the report that we are obligated to make to the House in respect to a permanent standing order. We have had some discussion on this in the last two meetings. The clerk was directed to prepare a report that would have some opening comments, which he drafted, and then it would incorporate the government report and the minority opinion. That was circulated to all members. I will open it up for discussion. We have some formal motions that we have to go through later, that we are required to. Mr Silipo?

Mr Silipo: No, I was just going to move it, Mr Chair, but if you want to do that later we can do that later.

I guess I will just say that, certainly from my perspective, the report as put together by the clerk captures very well the position of the government side of the committee. As you can see, we have incorporated a few of the changes suggested by the opposition parties into that position.

Mr Grandmaître: Could they be highlighted?

Mr Silipo: They are. I do not expect they will result in a great many kudos from the opposition, but none the less they are in the report; 1 through 5 were in our original proposal and 6 through 8 are changes. There is the one changing "calendar" to "business," allowing a little bit more time there, as was suggested by the opposition members. The other was in 7, in situations where it was felt that the list of intended appointees was too long to allow for all the reviews of all the people that the subcommittee wished to be done, for indication to that effect to be able to be made, although, as we state there, our view is also that if we have the subcommittee meeting more regularly, the potential need for that provision would certainly be reduced. The third was the one requesting that the descriptions we receive of the positions and the process should contain a detailed description in order to provide us with as much information as possible. Those are my comments.

Mr Grandmaître: So basically none of the major changes or amendments requested by the joint report have been really answered, or the government has decided the status quo is good enough and we will maintain the old terms of reference. Is that basically right?

Mr Silipo: As we discussed for the last couple of meetings, and as you indicated, Mr Chair, the reality is that there is still a very fundamental difference of opinion as to what the role of this committee should be. We are comfortable with its present role because we think it does do what it was intended to do, which is to substantially open up the process of appointments to public review. For that reason, we do not think it is necessary or appropriate to go into the kinds of changes that the opposition parties have suggested.

Mr Grandmaître: I was under the impression that the terms of reference given to us back in December 1990 were on a temporary basis. This means no major changes will take place in the terms of reference and we will continue to use the status quo. How temporary were these terms of reference back in December 1990? In giving authorization on a temporary basis, the Legislature provided that the committee should have the opportunity while conducting its reviews of intended appointments and so on and so forth. Those terms of reference were given to us on a temporary basis and I see they will be ongoing for as long as this committee is in place.

Mr McGuinty: I just want to make reference to one matter. We obviously have a serious difference of opinion here, but something concerned me—that I believe is an abridgement of the rules governing committees—I think the standing rules of the House have some application here—and that is with respect to imputing motives, which is generally not considered appropriate and not permitted. On the seventh page of the government members' position paper, the draft report, the government members have indicated:

"The government members on this committee understand the political posturing of the opposition and are profoundly disappointed that they have chosen to emphasize short-term political expediency over making serious efforts to improve the appointments review process that would be acceptable not only to this government but possibly to subsequent governments as well."

I resent that allegation that we are acting only out of political expediency and without a genuine interest in improving the process. I do not believe—and I stand to be corrected, Mr Chair—that this is permissible.

The Chair: It caught my attention as well, Mr McGuinty. I will have to ask the clerk with respect to the standing orders, but I may also encourage government members to respond to that as well. I guess I wonder about the necessity for the inclusion of that kind of reference.

Mr Silipo: Mr Chair, I will certainly abide by your ruling on it. Quite frankly, though, we should recall some of the activity that has occurred. I think I alluded to this a little bit in some of the comments I made at our last meeting, when some of the opposition members came to this committee and gave the impression that they came here prepared to discuss and debate a particular issue when in fact there was a prearranged press conference ready to go at 11 o'clock, only one hour after the committee meeting started—that tells me there is some degree of posturing going on.

Likewise, If you want to take a look at removing that, I would also want to reread very carefully the dissenting opinion, or what I expect will be the dissenting opinion, that will come from the opposition parties, because certainly in that submission there were a number of comments that I could look at that I think fall in the same kind of category as the one that is being suggested in this paragraph.

One in particular that has just been pointed out to me is right at the bottom of the first page of that proposal, where there is the accusation that "Premier Rae's government has instituted a rather feeble post-appointment review process that is essentially lacking in substance and which has been emasculated by the terms of reference."

The Chair: It is not part of our report, though.

Mr Silipo: It is not, but I presume it will be. All I am saying is that if you want to take that particular view of this, then you will have to apply the same kind of approach to the minority report—not to the minority report, because the rules do not provide for that, but to what I presume will be the dissenting opinion that will be presented.

The Chair: I guess I am a little confused about procedure here. I felt when we were talking about this last week that the dissenting opinion was going to be incorporated in the report, and I am not sure about the format. So maybe you are making a valid point here, Mr Silipo; I am not sure. Perhaps I can turn it over to the clerk to give the committee his advice on how he sees us proceeding. I am assuming that the opposition members want a dissenting opinion, so we are going to proceed along those lines. Mr Clerk, could you advise the committee on how that process would work.

Clerk of the Committee: To start with, the standing orders state that any member may request that a dissenting opinion be included in the report. Members have that right; that dissenting opinion shall be included. Previous committee Chairs' rulings indicate that a committee cannot dictate the content of a dissenting opinion. I can check, but I do not know of any Chair's ruling that has changed the content of a dissenting opinion. On the other hand, the issue raised by Mr McGuinty is one that is fairly before the Chair to determine as to whether the paragraph in the draft report is acceptable or contravenes the standing orders.

1020

Mr Silipo: I certainly would not want to be in a position where as a committee we are dictating what the dissenting opinion should be. The point I want to make is that it would seem to me, certainly in terms of the rulings that are applied, to be only sensible that the same ruling that is applied in terms of what is or is not acceptable pursuant to the standing orders in terms of the committee's report would also apply to any dissenting opinion. That would be a matter as between the individual member or members and the Chair, but I would expect that the Chair would also be called upon to rule. In asking for that ruling, I would not be trying to dictate the content of the dissenting opinion, but simply asking to apply the same kind of approach that has been applied in this instance.

The Chair: I think that is fair. My problem, without going through the dissenting opinion in detail, is just the reference you made to that comment on the bottom of the first page. There is some sensitivity on my part to making a ruling which deals with partisan comments, because I am a member of the third party, so I am a little bit leery of this kind of decision. I will give you my advice at this point, how I read this, but if I have to make a decision on this, I am going to look for guidance from the clerk and perhaps others in the Clerk's office because of what I consider to be the politically sensitive nature of this kind of decision.

When I compare the two comments, I do not find the comments made in the opposition report to be imputing motives, but I do agree with Mr McGuinty in respect to his concerns about the fact that this statement clearly makes the comment "political posturing" of opposition members. As I read the standing order which rules against this sort of comment, imputing false or unavowed motives to another member—

Mr Silipo: Mr Chair, is it the "political posturing" that is causing the problem? Is it that phrase?

The Chair: I believe it is.

Mr McGuinty: And the reference to "short-term political expediency over making serious efforts to improve."

The Chair: My point is, I do not think your report suffers by the removal of that paragraph, and if there are comparable or similar comments contained within the minority opinion, I think they should also be removed. As I said, I do not think either report is going to suffer by the removal of those kinds of remarks.

Mr Silipo: Mr Chair, as I said, I would abide by your ruling. I would be quite happy to have that removed. I guess what I am going to do is to just re-read the dissenting opinion, if the dissenting opinion is going to be submitted as it was in the form, and ask you to rule again on some parts of that. The concluding paragraph in that dissenting opinion states:

"We have serious concerns that the NDP government has no real intention of permitting this committee to undertake good-faith inquiries into the acceptability of candidates. By extension, therefore, we have no real expectation that it will review and consider seriously the excellent recommendations set out in the Macaulay report, and even less expectation that these recommendations will ever be implemented."

If that is not imputing motives, I do not know what is. I am sure if I were to go back and re-read it, I would find at least a couple of other similar paragraphs. I think that in short is the dilemma we have before us.

The Chair: It is a dilemma for the Chair as well to try and decide what is imputing motives and what is not.

Mr McGuinty: If the Chair intends to make a ruling then I will gladly comment and make argument. If you do not intend to make a ruling, then I will not say anything.

The Chair: Reading the rule, it quite clearly says, "...imputes false or unavowed motives to another member," and the reference that Mr Silipo is making has serious concerns in respect to the government and not an individual member or members. We could be splitting hairs here.

Mr McGuinty: The paragraph that concerned me in the government's draft report was a clear statement. The government members on this committee understand the political posturing. They have chosen to emphasize short-term political expediency. That is presented as a statement of fact. The paragraph that Mr Silipo is now objecting to, "We indicate we have serious concerns that the NDP government," we do not present as a statement of fact; we are offering an opinion.

Mr Silipo: We will be quite happy to change ours to an opinion then, Mr Chair, if that will resolve the problem.

The Chair: Is that going to satisfy everyone? Do you want to provide us with some wording?

Mr Silipo: Sure. "The members of this committee have serious concerns about what we believe to be the political posturing of the opposition," etc.

The Chair: I am having some difficulty with this, even reworded, but I think if we can get consensus just to finalize the report, as Chair I am prepared to live with it. I still have some difficulty with the fact that it does deal with "members." What is the feeling of the committee?

Mr McLean: I think there is a little confusion here over exactly what has taken place. I know I am a little confused, not necessarily others, but I think we need some time to deal with this. I thought today we were going to be dealing with the report from our research officer, and then we would take it from there after we had dealt with it.

1030

Mr Silipo: I think we can keep going around this one for meeting after meeting. We put together an initial position. You folks put together an initial position. We then took a look at your position put together. Yours was fairly hard-hitting, in our view. We put together an equally hard-hitting response to that. The long and the short of it is, ours will go forward as the majority and therefore the committee's recommendation. I am presuming that all of the opposition members will want to have the proposal you have put to the committee added to the report as a dissenting opinion, which you can do individually and collectively.

Let's just do that and get it over with. What is the point of wasting our time sitting around and going over and over and over this thing again? We have come to what agreements we can on the things we can agree with. Let's just put our report before the House and get it out of here, and move on to the other business that we need to deal with.

The Chair: I am prepared to do that. I guess we simply have to have consent from committee members. What is the feeling?

Mr Grandmaître: I think it is the only way.

Mr McGuinty: I am still concerned about the presence of that paragraph in the government report. If the government members want to amend it, then I would ask you to rule on it for Friday, but I am not prepared to consent to its inclusion.

The Chair: I am going to suggest in that respect that we deal with the remainder of the report, excluding the paragraph in question, so I can seek further advice from the clerk's office, because, as I said, this is a politically sensitive decision. Because of the fact that I represent an opposition party, I am a little concerned about these kinds of decisions as Chair, to be quite honest with you. If we can deal with the remainder of the report, excluding that particular paragraph, until the Chair receives—

Mr Silipo: That is, with the amendment.

The Chair: As amended, yes. I have been requested to make a ruling and I will make that ruling next week in respect to that paragraph.

Mr Hayes: I hope I understand this correctly, but what we are talking about here is implementing the dissenting report into the—

Mrs Haslam: No, adding it.

Mr Hayes: Or adding it, but we are going to talk about whether we exclude and amend this other article, which talks about the posturing of the opposition. At the same time, I know there are members who do not like that because we are making a statement that they do not totally agree with, but at the same time, are we expected to accept statements that the opposition has put together that we do not agree with?

The Chair: I am sorry, you will have to repeat the end of that. The clerk was talking to me and I could not hear you.

Mr Hayes: Just to be blunt about it, we have members from the other two parties who are saying they do not like a particular clause in the document that we have put together, but we want to just discuss that. At the same time, we do not agree with some of these other statements they have made.

The Chair: That is not, with due respect, the question. When we have a minority opinion, obviously you are going to have differences of view. What we are talking about here is, Mr McGuinty has raised the question of whether that particular paragraph violates the standing orders of the Legislature—

Mrs Haslam: With the amendment.

The Chair: —even with the amendment, and he has asked me to rule on its appropriateness in respect to whether it imputes false or unavowed motives to another member. What I am suggesting, Mr Hayes, is that because of the delicate nature of this, being a political decision, I have asked for advice from the Clerk's office. The clerk just whispered in my ear that perhaps we can even handle it today, because when we have the break between dealing with this report and the half-hour review, he can also seek opinions from the Clerk's office, so I could have a ruling before we break for lunch. It is not simply a question of disagreeing on viewpoints; it is a question of whether it complies with the standing orders.

Can we deal with the rest of the report, excluding that particular paragraph?

Mr McLean: What really is there to deal with in the rest of the report? The government members indicated that the report is going ahead as they have presented it. Our dissenting report will be included in it, regardless of whether we disagree with any other factors in the report. They indicated that it is done.

The Chair: We still require a motion, and I am not sure if this will require changing as a result of the removal

of that paragraph, Mr Clerk. The motion we are required to deal with is, shall I present the committee's report to the House and move the adoption of these recommendations, such presentation to be made at the earliest opportunity and no later than 16 May 1991?

Mr McLean: Will that report include the dissenting report?

The Chair: That is up to the committee; it is your decision.

Mr McLean: If the opposition wants it included and the government does not want it included, my understanding around here over the years has always been that the dissenting report would be included.

Mr Silipo: Absolutely. That is our understanding as well.

Mr Waters: We would do it to you if we could, just because it is you.

The Chair: Okay. The clerk is suggesting that we do not deal with these motions until after I have passed judgement on the paragraph.

Mr Silipo: Given your decision on how you are going to deal with Mr McGuinty's request, then I guess I would just need to be clear if it is the intention of one or more of the opposition members that they will want the report that was presented to us by the two opposition caucuses appended as a dissenting opinion. My sense is that the answer to that is yes. If it is, then I would request that you look at that report as well in the same kind of light in terms of there being at least a few areas, I believe, where there may be imputing of motives as well.

The Chair: I do not think it is incumbent upon the Chair to review the completed report. I think it is the responsibility of individual members, if they have a concern, to bring it to the Chair's attention.

Mr Silipo: I appreciate that, Mr Chair, and I then would just need some guidance from you in terms of the kind of time lines that I or other members of the committee would have to be able to raise those points with you.

The Chair: What I would suggest, Mr Silipo, is that we have the break and try to be back here at 10:55 so we can deal with it.

Mr Silipo: That is plenty of time.

The Chair: If you are not comfortable with that amount of time, what we will do is we will just table a decision on this matter until the following meeting.

Mr Silipo: Thank you.

The Chair: We will have a 15-minute recess. We will reconvene at 10:55.

The committee recessed at 1038.

1056

The Chair: We will come to order again. I advise the members that the clerk and I sought advice and an opinion on this matter and I am going to rule that the paragraph as amended is in order. I will simply say once again that I personally have some difficulty with this kind of wording. I am not sure it does anything to enhance the operations of the committee, but indeed it is in order.

Mr Silipo: Mr Chair, can I—

The Chair: The ruling is not subject to debate.

Mr Silipo: I was not going to debate it. I just wanted to say again that this paragraph exists in the second report we put before the committee and it reflects and responds, I think, to the tone that is in the report from the opposition parties. I am obviously glad of your ruling.

The Chair: I think we can move on now to the question that I am required to place. Shall I present the committee's report to the House and move the adoption of these recommendations, such presentation to be made at the earliest opportunity and no later than 16 May 1991?

Mr Grandmaître: Is there a formal vote, Mr Chairman?

The Chair: We require a formal vote if there is a request to have that.

Mr Grandmaître: Are you talking about both reports?

The Chair: No, we are not talking about the minority opinion. We are just talking about the report.

Mr Silipo, do you want to move that motion?

Mr Silipo: I will move that, Mr Chair, yes.

Motion agreed to.

The Chair: Does the committee wish to direct that the report be presented simultaneously in English and in French? Do you agree with that? It does not require a formal motion.

Mr McLean: We have no choice. That is the rule, is it not?

Mr Wiseman: No, I do not think so. You can have it brought in in English first and then the French translation can come later. Having it done simultaneously has not happened.

The Chair: That wraps that up then, members. The minority opinion will be appended.

Bill ordered to be reported.

1100

APPOINTMENTS REVIEW

NICOLETTE CARLAN

The Chair: The next order of business is a half-hour review of the intended appointee Nicolette Carlan, who has been selected by the official opposition. Ms Carlan, would you like to come forward, please? Welcome to the committee. It is a maximum of a half-hour review. As I indicated, your appearance was requested by the official opposition and we will open the questioning with Mr Grandmaître.

Mr Grandmaître: I have gone through Ms Carlan's CV and it is very impressive. Tell us how your experience with the Office of the Ombudsman will make you a better person to sit on this committee.

Ms Carlan: A better person? Am I more moral, being from the Ombudsman's office? I think the Ombudsman Act requires its people to look at both sides of any issue and to do an impartial investigation. I would think that experience of over 10 years has opened my eyes to both sides of many issues, as has my work at the Workers' Compensation Appeals Tribunal. I think I have a sense of

the needs of both the employer and the worker community and I hope I can bring the two of them together in accomplishing the goals of the Industrial Disease Standards Panel.

Mr Grandmaître: How often did you deal with industrial disease cases while you were with the Ombudsman's office?

Ms Carlan: I have been doing workers' compensation for the last 20 years, so probably over the last 20 years I have dealt with 4,000 cases personally and I would think that 10% of those cases were industrial disease cases, either hearing loss, respiratory illness or other kinds of problems. I think about 400 of the cases I have dealt with, either as an adjudicator at WCAT or in my work at the Ombudsman's office or my previous work at the legal clinic, dealt with industrial disease cases.

Mr Grandmaître: Mr McGuinty, do you have any questions, really serious questions?

Mr McGuinty: I might just take advantage of your presence here, Ms Carlan. I gather that determining the connection between an industrial disease and the workplace is often rather complex. Could you describe any system for improving the methods used presently to establish a connection?

Ms Carlan: It is my understanding that the IDSP relies heavily on the scientific knowledge base, and it is my view that deciding something is an industrial disease is really an issue of social policy rather than strict science. Science plays a part in it but, in addition to science, you have social concerns. The standards by which you determine whether something is an industrial disease or hazardous really depends on the social values of the environment.

For example, in hearing loss cases we know that 85% of the population will be protected if they are not exposed to noise at levels greater than 90 decibels; so 15% of the population will be affected by noise at less than 90 decibels. It has been the policy of the previous governments for the last 20 years to allow the 90-decibel level to be the standard by which industry has to protect people. The question is whether you are supposed to protect the other 15% of the population and how you do it.

It is a difficult question. What has happened is that we narrowed the scope of deciding what an industrial disease is by limiting our review to the scientific knowledge base. Science is an art; there are a lot of questions that there are no answers to. To be realistic about deciding whether something is an industrial disease, you have to take into consideration the entire social milieu, and that includes the concern for competitiveness in the marketplace and a variety of other things.

I do not have a simple answer for you and I do not think there is a simple answer. I think you have to look at a number of things, and that is what a revitalized Industrial Disease Standards Panel could do, by including more people in that decision-making process.

Mr McGuinty: I gather that by being fair you are saying that science obviously has a role to play in providing us with data, but society has to draw the line somewhere in terms of what is acceptable and what is not.

Ms Carlan: That is right.

Mr McGuinty: Do you think that presently we are encompassing a sufficient number? Where have we drawn the line, in your estimation, and should we be including more people who are suffering but are not presently included?

Ms Carlan: We have a number of areas where we have not looked. We have been looking at really specific things like asbestosis. We have a specific hazard and thereby a specific disease, and so those two come together and nobody has a problem; they can define asbestosis as an industrial disease. But when you have something like chronic obstructive lung disease, which affects the general population, and probably 12% to 15% of the population suffers from that disease, we have a real hard time defining that as an industrial disease. However, I would venture a guess—and this is just a guess; it is not a statement of policy or anything else—that there is a higher incidence of chronic obstructive lung disease in people who are exposed to dust, like miners, who work for a living, than there is in office workers. When you have a non-specific disease that affects the general population, we have not done a good job in identifying the occupational risk involved in the development of that disease and I think that is one area we have to look at to expand our horizons.

Mr McGuinty: Do you see any potential for conflict, Ms Carlan, in your past experience as vice-chairman of WCAT and your new position?

Ms Carlan: No, I do not. I think one links into the other. I have been required to make decisions with my colleagues on industrial disease cases. I have known where the evidence is lacking and where we have had to make a decision on the best evidence we had, which was not the evidence we really wanted. I think it has given me an insight into developing standards that will be useful to adjudicators, so I do not see that there is a conflict at all.

Mr McLean: Is this position full-time?

Ms Carlan: No, it is not; it is part-time.

Mr McLean: And you have another job?

Ms Carlan: No, I do not. I have applied for a few things. I have talked to the government, and there has not been a chairman in this position for close to a year. So I am anticipating that I will spend a good part of the summer on this on a full-time basis and be looking at something in the fall on a part-time basis, another part-time basis.

Mr McLean: Is this based on a per diem rate?

Ms Carlan: Yes, it is.

Mr McLean: How much is that rate?

Ms Carlan: I do not know.

Mr McLean: Did you apply for the position or was it advertised or how did you—

Ms Carlan: I applied for the position. I knew that the position was open. My term at WCAT had expired in October and I knew the position was open and I wrote a letter to Mr McClellan in the Premier's office, who I knew from previous appearances before the standing committee on the Ombudsman and in some of my volunteer work. I wrote to Mr McClellan and Mr McClellan then passed my résumé on to Ms Phillips. I met with Ms Phillips in January and

she then passed my résumé on, as I understand it, to the Minister of Labour.

Mr McLean: Do you know of any other people who applied for it?

Ms Carlan: Yes, I do.

Mr McLean: And you were pleased that you were the successful one.

Ms Carlan: That is right.

Mr McLean: You have a long range of experience in the field of, as I say, health care towards workers. What affiliation would there be with regards to the workplace health and safety?

Ms Carlan: Agency? I do not know. We have to talk about that. I do not know what the relationship is. They are certainly talking about occupational health and setting up committees and educating workers. We would be a more scientific and research-oriented agency, but I would think that there has got to be some interplay between the two and it is a matter of negotiation and establishing stuff.

One of the things that I think we could work towards, for example, is white finger disease, which miners get from using pneumatic drills. It seems to me that we have got to be able to develop a drill so that people's nerves do not die when they use them. I do not see why the research component at the occupational health and safety agency could not in some way fund some of that research. I think that we could provide some of the scientific knowledge about what causes that kind of disease to them so that maybe we will not have the disease, we will not have to pay any compensation claims, and people get to use their fingers for the rest of their lives, which certainly has got to be the goal of everybody.

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Mr McLean: Yes. I think it is an area which is of great concern to the people of the province, and I am glad to see that you are going to be looking at that, because a lot of workplaces have too much noise, and in 20 years' time workers will be on WCB because of the injuries they have received. Disease in the workplace, such as asbestos and working with tires in a tire factory: do you anticipate those are the areas that you would be looking at?

Ms Carlan: Asbestos has been the subject of a number of studies. I think it is time for somebody to write the regulations, and that has not been done yet. One of the things that the IDSP could and should do, in my view, is help draft the regulations for asbestos exposure in the province and put them forward to the government so that they can be part of the Workers' Compensation Act and regulated. There are a number of areas where we need regulation, and I would hope that we would be a part of the drafting of some of those regulations.

Mr McLean: One final question: Are you a member of any political party?

Ms Carlan: No, no.

Mr McLean: Non-political?

Ms Carlan: Non-political. I could not have been a member when I was at the Ombudsman's office, and as a neutral vice-chair at WCAT it was impossible; so it has been at least 15 or 16 years.

Mr Frankford: Could you go back again to what you were saying, that you felt there was a difference between the scientific approach and the social approach?

Ms Carlan: Scientists, to establish something is probable, I would think would want—I do not know what statistical value they would need, but it certainly is different than what a lawyer or an adjudicator would want. Fifty-one per cent is enough in a court to say that something is probably related. I do not think a scientist would be satisfied with that kind of value. In adjudicating claims and in making regulations you are allowed to make a guess because you are dealing with people's lives; it is not a guess, but a professional estimate. Something less than a scientific level of proof is sufficient to allow entitlement for an industrial disease. From the most recent government report we know there is a 40% higher incidence of lung cancer in welders than in the general population. I do not think a scientist would say that welding causes lung cancer, but I wonder, from a social policy view, whether that is strong enough to say that a welder who has lung cancer may well, in fact, have an industrial disease.

Mr Frankford: I have difficulty with what you are saying because you are talking about probabilities and percentages, which to my mind is scientific. I do not think scientific means 100% certainty, but—

Ms Carlan: There is a big divergence in the workers' compensation community about what kind of level of proof is necessary. Professor Eison, the former chair at the board in British Columbia and now a professor at Osgoode, has always argued that unless you can establish an alternative hypothesis the workers should get the benefit for an industrial disease. That is a pretty loose standard of proof, because we do not know what causes a lot of kinds of cancers, so if you do not know why this person has one kind of cancer or another kind of cancer you automatically attribute that cancer to the workplace. That is one of the adjudicative models that is on the table. I do not think that a scientist would be prepared to say, "In the absence of an alternative hypothesis, we must accept one of many other kinds of exposures." So there is a big continuum there between an alternative hypothesis and a scientific level of proof, and I think that someplace in the middle would be the appropriate road for establishing whether something is an industrial disease or not. There is a difference.

There is a big problem. I completed a case not long ago on chronic obstructive lung disease while I was at the Workers' Compensation Appeal Tribunal. In 1979 the government considered doing a study on chronic obstructive lung disease for miners. There was no money in 1979. In 1991 the scientists are saying there is probably a relationship, but they do not know for sure. Nobody has really studied it; the reason they have not studied it is that there is no money and there have been other health care priorities like smoking and breast cancer. There are a number of ways that the Canadian government can spend its money. The fact that the scientists have not established a relationship does not mean that people should not be entitled to benefits or that

there is not a relationship; it just means the scientists have not done the study. If the scientists have not done the study, how we decide is I think a question of social policy.

Mr Frankford: I have some difficulty when you say "the scientists." I mean the diagnoses and the correlations. This should be something which can come out day in and day out. People are being diagnosed and treated all over the province, and we should be in a position to establish data bases where everyone can establish those correlations.

Ms Carlan: There are hundreds of thousands of chemicals in the workplace, Dr Frankford. To suggest that we should know the synergistic effects of all those chemicals on all people who live different kinds of lives—the level of smoking is individual. Do you eat a lot of pork? Do you eat a lot of beef? Do you eat only seafood? There are so many different variables that go into the diagnosis of an injury that to suggest there is one real answer is just not realistic in my experience. You have to make a judgement, and when I talk about social policy, I am talking about a judgement.

Mr Frankford: Do you see the panel developing its own scientific studies?

Ms Carlan: Sure. The panel currently has a couple of scientists on staff, and as I understand it, there are a couple of openings. If you approve my appointment, I will be speaking to Mr Di Santo about some additional funds for the Workers' Compensation Board to increase our complement.

Science is a part of it, and there is a lot of science going on in the university. We have some real good universities. McMaster, for example, does a lot of work in occupational health and safety. I am not saying that science does not play a part; all I am saying is that it is a part and it is not the only answer.

Mr Frankford: Can I just finish with one question? I will read you a quote from the panel's report in 1986-87:

"Attending physicians may not recognize the work-relatedness of a given disease, and government and academic administrations may not recognize the need for appropriate epidemiological research of worker populations. The human resources committed to epidemiology and industrial clinical medicine in Ontario and elsewhere are far too inadequate."

Ms Carlan: That is from the report, but that is not my quote.

Mr Frankford: No.

Ms Carlan: I agree with that; I think we have to spend money on science. I am not saying that science is not important, and I hope that I have not given you that impression, but I think that it is a piece of a pie, but it is not the whole pie. You have to recognize that the scientists do not know everything. They do not have a cure for cancer, and where there is a carcinogenic—I do not know what that means. Does it mean that it causes cancer for everybody who is exposed to it, or to a high percentage of people, or to people who are exposed to a certain chemical in addition to eating a lot of pork? There is not a simple answer, and so it is only part of the process.

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Mr Hayes: Ms Carlan, you are talking about the scientific part of things, and of course you are familiar with the American Conference of Governmental Industrial Hygienists and the guidelines for setting levels for substances. In those particular guidelines sometimes I think they just arbitrarily make changes, because when you look in that book, it says "proposed changes," like reducing threshold limit value, for example.

Do you think there should be even more done there? I know the previous government designated some substances, but they were actually just based on that American conference of industrial hygienists' booklets. I am just wondering whether you think there is enough real scientific research there, because it seems that we do know that certain substances are carcinogenic, and they say, "Well, next year we'll propose that we might change that exposure."

Are there other ways that we can make the change? I think probably through the social part, like what you are talking about, with the epidemiological studies, would tend to give us the opinion that even though that chemical scientifically does not state that it is a carcinogen, that a high number in that particular population have that cancer. You are saying you have to work them both together, but do you think that the method that we have used in the past—and a lot of times that is only guidelines—really goes far enough?

Ms Carlan: I do not think it has been a focus of the previous government, and I think that is a concern. We have the technology now with computers to know what people are exposed to in the workplace and to be able to cross-reference things. We have a lot more capability than we ever had before, and I am not sure that those capabilities are being used to the fullest extent.

I would think that with the workplace hazardous materials information system legislation and with the new agency on occupational health and a stronger IDSP, you might be able to develop a more organized and systematic way of establishing threshold limits and doing them on a regular basis so that you do not wait every year. I can tell you that you will never know what all the threshold limits are or should be. Although it might be a goal to make every workplace completely safe, it cannot be a reality because the workplace just changes too quickly. But it certainly should be the goal, and by doing it systematically, I would hope that a number of agencies in the government can pull together and accomplish that goal.

The Chair: Very good, thank you. Mr Waters, you have one minute.

Mr Waters: Just a quick one, then. I have a question on plastics, because they are everywhere nowadays. I know where I came from, they mixed five different plastics and every one had a side effect. Nobody could ever tell us what we were dealing with by the time you mixed them and melted them. Is there any move afoot that would try to deal with that problem?

Ms Carlan: Well, I think some of the WHMIS legislation is requiring you to tell people what the stuff is together, and I think maybe that is a good question for Mr Forder, to find out what they are going to do with all their

research money to figure out exactly what people are exposed to in the workplace. The IDSP would deal with the problem after they had been exposed, but Mr Forder's and, I think, Mr Baker's agency would be more likely to be able to answer that question for you.

Mr Waters: He is going to love you. Thank you.

The Chair: Thank you very much, Ms Carlan. That concludes the questioning, and we wish you well.

Ms Carlan: Thank you very much.

RITA DEVERELL

The Chair: The next intended appointee selected by the third party is Rita Deverell. Ms Deverell, would you like to come forward, please. Welcome to the committee. We are going to commence the questioning with the third party.

Mr McLean: You been involved in the film industry for some time, have you?

Ms Deverell: Yes, quite a long time, actually. I have been working as an artist in Canada for 23 years, and about 18 of those years have been in television. I am a broadcaster, not a filmmaker.

Mr McLean: Have you had the opportunity to visit and review the board with regard to censoring films? Have you ever visited the Ontario Film Review Board?

Ms Deverell: No. I have, from time to time, known people who have been on that board but I have no personal involvement with it.

Mr McLean: Did you apply for the position or were you asked to send in a résumé?

Ms Deverell: I was asked if I would be interested, and I indeed was interested, but no, I did not apply. I suppose one of the realities of a working artist is that we tend to spend—especially in my case, I produce two weekly half-hours of television, so most weeks anything that does not directly relate to my show does not get done. So yes, I was in fact approached.

Mr McLean: Who approached you?

Ms Deverell: It was the minister's office; Rina Fraticelli, who works as a special assistant to the minister and who is known to me from her work at Studio D of the National Film Board, the women's studio. We have from time to time encountered each other in the industry.

Mr McLean: Do you have any specific thoughts on how we can increase the Canadian content in our films?

Ms Deverell: The work of the film development corporation of course largely deals with Canadian production. A small portion of its work deals with promoting Ontario as a location site for other than Canadian productions, though it becomes a Canadian production when it uses Ontario as a location site.

However, in my own view, it is extremely crucial, maybe now more than ever. I think our cultural industries are more threatened at this time than any time that I know of in Canadian history. I have been a Canadian since 1967. I have never known a time in that length of time when there have been so many policies that would seem to indicate that this is not a sovereign nation culturally. There are so many federal policies that do this that this is something that deeply disturbs me.

Mr McLean: Do you think the Ontario government should bring in some protectionist legislation, such as they have in other provinces, to protect the our film releases?

Ms Deverell: I am not sure I am quite prepared to answer that. That is something I would have to give a considerable amount of thought to. I do, however, feel—and I am not sure it is through protectionist legislation but possibly it is—that we have to do everything we possibly can to foster our arts, culture and entertainment. We should be very unembarrassed—in fact, I do not know why we are embarrassed; most other nations are not—about realizing that this is a sovereign nation with its own arts, culture and entertainment, that these are industries as well as a way of expressing ourselves. Yes, we do have to do everything, but I would have to think a bit about legislation.

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Mr McLean: I would like to go back, just in my final questions, to the censor board. I had the opportunity, when we were on committee here several years ago, to view some of those films that we see. I am wondering, in your own mind do you feel that there is a borderline where we should not be showing these types of films that we sometimes see?

Ms Deverell: Censorship is an extremely difficult question. A film that is shown in the movie theatre—I think the system of providing some kind of guidance as to whom the film is appropriate for is a very good idea. That is something I certainly, as a parent, very much appreciate. Yes, guidance should be provided. We certainly should be extremely concerned about anything that exploits performers, especially women and children, just like any other form of exploitation. Pornographic exploitation is a very serious matter and something that I take seriously.

This is ticklish, though. We have dealt with it, for example, in our union, ACTRA, the Alliance of Canadian Cinema, Television and Radio Artists, with extreme difficulty, because how you come up with what will protect performers and not impede the creative process is a very ticklish matter.

That does not give you much of an answer. I suppose it does give you an answer. I think there should be guidance. I also think there is a difference between what is on television, which is just in the air and is readily accessible to everybody, and what is in movie theatres. I think there are some questions there in terms of what the public sees. There are also some questions in terms of workers' protection and workers' rights, people who work in cultural industries.

Mrs Haslam: I just wanted to let you know that I come from Stratford and I am very interested in the arts and culture, because when you mentioned that there is an industry there, you can well understand the industry it is to Stratford and the money, $250 million, that comes in at any one time from festivals.

However, having said that, I am also going to go into another area that I deal with, and that is employment equity. I understand that in 1990 the Toronto Women in Film and TV did a study and it found that in 1987 the average

woman in the industry was paid about 75% as much as the average man and that women tended to be in the lower-echelon jobs rather than in the higher-profile jobs: directors, producers and things like that. I wondered if you would like to make a comment on that and, particularly, should the OFDC develop pay and employment equity policies for corporations to follow.

Ms Deverell: These cultural industries are just like all other industries. We have got employment equity in place in Ontario and these industries certainly should not be exempt at all.

Yes, the situation of women in film and television is very serious. I am pleased that I work for an organization, Vision TV, that is on the very good side of the balance sheet as far as that is concerned. More than 50% of the people who work at Vision are women, more than 50% of the people in the top creative jobs are women. Yes, the Toronto Women in Film and TV study said only 14% of the top jobs are held by women. Then there is also the question of people of colour, which is even more serious than women, very much more serious.

Yes, employment equity needs to apply to these industries like all other industries. The fight will be, as it historically always has been, something to do with creative freedom, which is usually the argument that is trotted out, but I think that can be dealt with.

Mr Wiseman: We have heard just recently Carla Hills, who is the negotiator for the Americans on the free trade deal, say that the next round of negotiations between the Americans and the Mexicans, with Canada being involved, is going to reopen the whole question of cultural protection that Canada was able to, in some minor ways, secure in the first round of free trade. Would you see your role, should you get the appointment, as developing some kind of strategy or some kind of method by which Ontario and Canada could protect their film industry from the advances being made by the Americans?

Ms Deverell: I think it is a very serious question. It has always been a serious question. Yet it is more serious in recent years, and I think it is because of free trade, because of the massive budget cuts to cultural industries, to the CBC, to the Canada Council; to the federal cultural agencies. I do not see any stop to it, and I do think that it has to be stopped. There is perhaps no single more important aspect of our economy in terms of defining who we are than arts, culture and entertainment.

I personally worked, though I would not say very hard, certainly medium hard, on all the protests to the cuts to cultural industries as they came down one by one. I was teaching at the journalism school at the University of Regina at the time and there were some protests that I was taking a political position in, protesting these cuts. I said I did not see this as a problem at all because that, after all, was the industry I worked in. What was the difficulty with protesting budget cuts that in fact were going to affect our students, since this was the industry that they were being trained to work in? I guess the short answer to your question is yes, I think it is very serious.

Mr Silipo: Ms Deverell, you mentioned earlier in response to the question about the process that led you to this point. Could you tell us a little bit about what interested you in becoming a member of the board, and particularly, what kinds of things you think you can contribute on the board?

Ms Deverell: As I said earlier, I have been a practising artist in this country for 23 years, so this is the area that concerns me extremely. I will add a few things to that. That means I have made my living, one way or another, as a performer and broadcaster for 23 years, which I will assure you is actually not easy to do. It is not an industry that is organized in such a way that it is easy to make a living. This is an industry that concerns me very directly.

I have very serious concerns and have been active in the areas of dealing with the inequality of women in this industry. I made a contribution to phase 2 of the study that was referred to earlier, Toronto Women in Film and TV. Specifically, they wanted their statistics commented on by a woman of colour and by someone from the disabled community. I pulled together a team: myself, a rather young independent Chinese Canadian filmmaker and a rather young disabled broadcaster. This is an area that has concerned me directly.

In my own union, here again I have been active in working on questions of employment equity for visible minority people who work in film and television. I suppose the way to put it would be that I have that background, that very personal concern and that passion to bring to the board.

A little bit of a sidelight is that I am a relatively recent resident of Ontario. The last three years I came to work for Vision TV, although I worked back and forth in Ontario a lot. I was always commuting from Saskatchewan. I welcome the opportunity to participate in this province at this level. I hope I will be able to make a contribution in view of my background and yes, as a citizen I am literally quite glad to be able to participate in this way.

One final thing that is a problem on boards of cultural industries or this kind of agency—and I know this; I did have a brief, two-year stint working for the Saskatchewan Arts Board as a performing arts consultant. I was a staff person and we had a board to deal with. One of the things that happened very frequently was that there would be people on the board who worked in other kinds of areas who had literally no notion of the kinds of economic constraints, the kind of lifestyle, the kinds of pressures that artists work with. It is very difficult for a person who has an assured salary that comes in every year of $80,000 to understand what it is like to be a freelance artist. It was only by having artists on the board that this was able to be continually interpreted to people.

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Mr McGuinty: Ms Deverell, I wonder if you might describe for me in detail how it is that you came to appear before us today. I gather the original contact was, there was an acquaintance in the minister's office. What happened after that?

Ms Deverell: I was approached to see if I would be interested, and I indeed was interested, so I submitted background materials on myself. Then—you are a bit more

familiar with your processes than I am—I assume what happened is that my name was submitted as a nominee, and this committee requested to see me. That is essentially it.

Mr McGuinty: The contact you had, then, with your acquaintance in the minister's office, what did that consist of, a telephone call?

Ms Deverell: Yes.

Mr McGuinty: Were any assurances offered with respect to your getting the position?

Ms Deverell: No.

Mr McGuinty: What is your understanding of what is going to happen here today?

Ms Deverell: My understanding is that you wished to meet with me and that you may deem me appropriate or inappropriate, and that I would be advised.

Mr McGuinty: All right. I am going to leave that matter aside and I will proceed with something else.

Quebec is touted by some as having legislation which is stronger than ours. The former chair of the OFDC, Wayne Clarkson, called on the Mulroney government to introduce legislation to strengthen Canadian film companies' ability to bid for distribution rights to foreign films to be shown in Canada. He has also indicated that the Ontario government may be forced to introduce protectionist legislation such as Quebec's.

I gather an Ontario film distributor cannot distribute a film in Quebec without first setting up an office there, if I am correct. Do you think we should have such a thing here?

Ms Deverell: I have not thought carefully enough about the fine points of legislation. Obviously this is something I will need to do if I am serving on the board. However, there is one thing that is pretty obvious, and it is that the arts and culture and entertainment in Quebec thrive. It is one of the first things that I noticed when I came to Canada, and it continues to be the case.

There are real successes in Quebec, and I have to assume that this is a combination of having a desperate need to preserve and enhance culture, and protectionist legislation. I certainly could not, at this point, say exactly what kind of legislation there should be. But there is absolutely no doubt that the arts, culture and entertainment in Quebec thrive. Jesus of Montreal is a film seen by thousands, a wonderful film. One can actually name popular, serious playwrights in Quebec like Michel Tremblay. One can say that there are actors who are the best interpreters of Tremblay. That would be very difficult to say in English Canada, and I say that while being married to a playwright.

Mr McGuinty: I wonder if I could canvass another area with you. I have the statistics here before me saying an OFDC study discovered that Canadian films capture only 3% of the screen time and 1% to 2% of box office figures in Ontario. Canadian films make up only about 5% of video retailers' inventory. The average Canadian watches 23.3 hours of TV a week, but only 29% of those hours are spent watching Canadian programming. What can we do about that?

Ms Deverell: This problem is very old. It is as old as John Grierson's fight at the National Film Board with the Hollywood distributors. We have never in this country, presumably, taken seriously that if it is an American stranglehold on our distribution system, that is a problem. But recently this seems to be combined with what I will call the tax on cultural industry. It looks like protectionist legislation is the thing but, as I say, I am not prepared to speak to exactly how.

But this is a very old and serious problem. The minute that people who work in cultural industries or governments relax on the extent to which it is a problem, and that is what seems to have happened recently, then the problem only gets worse.

As for the television situation—and I work in television, after all, not in film—certainly the organization I work for promised in its promise of performance to do a great deal better than that, and we have, so I suppose that speaks to the importance of legislation.

Mr McGuinty: How do you reconcile protectionist legislation with the general movement, worldwide I think, to open markets so there is a freer flow of goods and services across national borders?

Ms Deverell: I do not think there is anything wrong with protecting and enhancing our own identity. I am not sure that cultural industries are like refrigerators but, for that matter, I am not even sure that refrigerators are like refrigerators if it means that all kinds of plants close and people lose their jobs. I mean, I think there is nothing wrong with our looking after our own interests. There is particularly nothing wrong with our looking after our own interests in this area.

Mr McGuinty: I wonder if I might ask you as well what role you see the cultural arts playing in the context of our constitutional discord. What positive role can they play?

Ms Deverell: I am not sure. I think we have a responsibility to interpret to the various publics in Canada, in Ontario, what is involved in those debates. We have a responsibility to make sure that the citizens are aware of what is at stake and aware of—now, I suppose I see this mainly from my position as a broadcaster—groups of people who are not actively participating or who would be relatively disfranchised by these processes. To that extent I think there is certainly an information component that is very important.

Mr McGuinty: I guess another factor or feature that I was thinking of is, what about promoting Canadianism, if there is such a thing, in a more concrete way?

Ms Deverell: I do not know that we can promote Canadianism, any more than we can promote racial tolerance. What I think we can do is reflect on our screens and on our stages a vibrant cultural scene. My approach to something like racial tolerance is quite simply that in every show I do there are people of a variety of ethnicities, there are men and women, and there are people of a variety of faiths—faith, because Vision TV is concerned about that. We just do it, I think, but I do not know that we can make commercials. For Canadianism or racial harmony or those kinds of things, I think we just do it.

Mr McLean: Do you think Toronto should proceed with the opera house?

Ms Deverell: I do not know if I am going to touch that with a barge pole.

Mr McLean: Being that you are in that industry, I thought you would think it would be an asset.

Ms Deverell: This is a very difficult one, because right now many arts groups in Toronto are in a desperate space situation. We all know what Toronto costs, so I do not need to bore you with that. I think that the ballet opera house, if it also addresses the space needs of other cultural industries in a variety of ways, is an excellent idea.

Something else that is a serious concern to me, since I have been in Ontario, is the megamusical: the Phantom, Les Miz and so on. Aside from the fact that these things employ a few Canadian or Ontario performers, they are not Canadian. They are sucking away vast numbers of consumer dollars from things that are our own; most of the money leaves. I think all these things are connected; so at the same time we are pulling our support from grass-roots cultural industries, we are in effect giving support to highly commercial external work, and this bothers me a great deal.

Mr McLean: My final question is mainly for information and I think you are the one who would have it. I am interested to know—you spent some time in Saskatchewan—how you would rate the industry in Ontario, comparing it to, say, British Columbia. I know there is a great deal of filming being done in Quebec. How would Ontario rate among those three?

Ms Deverell: Of course, the major part of the industry is here. That is only natural, because most of the people are here. Then, as you pointed out, the rest of the industry is in British Columbia and in Quebec.

I was involved in Saskatchewan's efforts to set up something that is very similar to the Ontario Film Development Corp, and Saskatchewan being very small, this was quite an effort, but it is happening now. One of the most adventuresome things that has happened in this area is that Manitoba was able to negotiate a major federal-provincial agreement in publishing, filmmaking and other cultural industries.

Having said all that, Ontario does well. I think what Ontario has got to do, though, is a lot better.

Mr McLean: Is Ontario returning more to live entertainment? Are more stage shows coming back?

Ms Deverell: No.

Mr McLean: I notice in my community they are having more live shows in the opera house.

Ms Deverell: No. I think there is probably less professional theatre here than there was in, let's say, 1970.

Mr McLean: Is that right?

Ms Deverell: Yes. That is indigenous theatre. I am not talking about the big megamusicals but about indigenous work, by Canadians, for Canadians, about Canadians, etc. There is a lot of work that needs to be done in this area, and I think this is not the time to be asleep.

The Chair: Thank you very much, Ms Deverell, and we wish you well.

Ms Deverell: Thank you.

The committee adjourned at 1155.

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Wednesday 15 May 1991

Journal des débats (Hansard)

Le mercredi 15 mai 1991

Standing committee on government agencies

Appointments review

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 15 May 1991

The committee met at 1013 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

NICOLETTE CARLAN

The Chair: The first matters to deal with, as you can see from your agenda, are the determinations of whether the committee concurs in the appointments of the individuals we interviewed last week. The normal process is to do these on an individual basis. I would ask for a motion in respect to Nicolette Carlan, we have a motion either concurring or not concurring with the intended appointment of Ms Carlan.

Ms Haslam moves the appointment of Nicolette Carlan to the Industrial Disease Standards Panel.

Motion agreed to.

RITA DEVERELL

The Chair: The second intended appointee is Ms Rita Deverell.

Mr Frankford moves the appointment of Rita Deverell to the Ontario Film Development Corp.

Motion agreed to.

The Chair: Okay, we will advise the appointees of their success.

ROSEMARY O'CONNOR

The Chair: We will move on to the first review: the selection of the official opposition, Rosemary O'Connor, who is an intended appointee as a member of the Ontario Share and Deposit Insurance Corp. Ms O'Connor, would you like to come forward please and take a seat? Welcome to the committee.

Ms O'Connor: Thank you.

The Chair: We have broken this into 10-minute allocations between each caucus. Do you have anything you would like to say at the outset before we get into questioning?

Ms O'Connor: No.

The Chair: All right, fine. We will begin the questioning with Mr Grandmaître.

Mr Grandmaître: Ms O'Connor, I feel I have known you for a long time. This is the first time that I have received a phone call, Mr Chairman, praising Ms O'Connor for the great work she has done in the past 15 or 20 years with credit unions.

I remember getting involved with the credit union movement and the caisse populaire movement some three years ago, and these people were totally dissatisfied with the approach of Mr Nixon concerning the deficit. I should not call it the deficit; I am referring to your premiums for insurance, your fees. At that time, you people felt you were being somewhat discriminated against. Can you tell us more about this? I think it is a foregone conclusion that you will be a member. What will be your approach or some of your recommendations as far as insurance premium fees for your group?

Ms O'Connor: First of all, I would have to look at what that pool is at the present time. I agree with you: there was a great deal of consternation over increase in premiums. Credit unions and caisses populaires up until the 1980s were self-insuring. We had our own stabilization funds, so it was not taken lightly that another body was determining what that fund should be. But I think that is only because everybody resists change to begin with.

Second, I think that over the 10 years we have grown to realize that pool must be very strong and secure. My approach would be: how could we best do that, but still allow the credit unions operating surpluses to go about what their mandate is? I would want it to be as moderate as possible, but my first concern would be on the stability of that pool of insurance funds.

Mr Grandmaître: So, in other words, you are saying those premiums should be increased?

Ms O'Connor: I have no idea. I have not seen all the statistics. I have not seen all the arguments for or against. Just briefly, looking at the last financial statement of OSDIC, it would depend on what is reasonable. Looking at where it is, if you could watch your costs—and they are being watched, I am sure—you may not have to increase, but I would need a great deal more information. But I would not be opposed, if it had to be to provide the security needed, to telling my colleagues this was necessary.

Mr Grandmaître: I remember they were adamantly opposed to any increases in premiums. At the same time, three or four credit unions and a couple of caisses populaires were in financial problems. I do not know if you closed any of the credit unions, but a few—maybe two or three caisses populaires—were closed because of financial problems.

Do you feel that your movement—the credit unions and the caisses populaires—is ready in 1991 to face the competitive world of banks?

1020

Ms O'Connor: Yes, certainly I think they are. I think we are well positioned. The reserve structure, the capital, built up in the last 10 years is in my opinion very admirable. I fully believe that the credit union-caisse populaire concept is one that provides an alternative to financial arrangements for the people of Ontario, and I believe, with strong guidance and attention to the duty that they are charged with, they certainly could be competitive in Ontario. I believe they are.

Mr Grandmaître: That is good. Do you think the credit unions and the caisses populaires should not be

grouped as they are today? Do you think they should be separated? Do you think we should have two groups instead of having one group? Caisses populaires are part of the credit union movement and credit unions are part of the caisses populaires movement. Do you think they should be separated?

Ms O'Connor: If it is for the insurance aspect, my initial response would be the bigger the pool the stronger it is. In that regard, if you are alluding to governance of them, then that is a different issue. As far as insurance is concerned, unless shown otherwise, I believe that pool should be as big as it can possibly be for the security of the consumers.

Mr Grandmaître: I would not want to go on record as saying I agree, but I will follow up on this one. Due to the fact that you have, what, 858 or 859 branches, I think—

Ms O'Connor: It is down to a little less than 600. A lot of amalgamations are being carried out.

Mr Grandmaître: A lot of amalgamations over the last four or five years?

Ms O'Connor: Yes.

Mr Grandmaître: Then my question is irrelevant. I will pass on to my friend, Dalton.

Mr McGuinty: I have no questions at this time. I may, if there is time, at the end.

The Chair: There are about two minutes left. Mr McLean, do you have any questions?

Mr McLean: I would like your opinion with regard to ownership of credit unions. I have always been of the opinion that nobody should own more than 10%. What is your view as far as ownership goes?

Ms O'Connor: In a credit union movement our bylaws are one member, one share, so in our particular credit union with close to 14,000 members we have 14,000 owners. You only have one vote at the annual meeting on any issue. It is not dependent on the dollars.

Mr McLean: How many shareholders were there in Andy Markle's credit union?

Ms O'Connor: I am not familiar with that name.

Mr McLean: He was the owner of a credit union that had financial problems.

Ms O'Connor: There would be no one owner of a credit union. You must have—I believe the act says 50 to start with.

Mrs Haslam: Twenty-five.

Ms O'Connor: Twenty-five to start a credit union, and it is one member-one vote.

Mr McLean: But one member could own 90% of that credit union, right? If there are 25 people, one person could own 90% of the credit union and yet you would still have the other 24 shareholders.

Ms O'Connor: No, each has equally one vote.

Mr McLean: And the trust company?

Ms O'Connor: Credit unions and caisses populaires have different regulations.

Mr McLean: They come under the same ministry, only they have different regulations.

Ms O'Connor: That is right. We have our own act.

Mr McLean: I see. That is interesting to know. I was not fully aware of that. The ratio for capital assets to surplus—what figure would you deem to be appropriate?

Ms O'Connor: The act at the moment specifies 5%.

Mr McLean: Are you satisfied with that?

Ms O'Connor: I am not satisfied on how they calculate it. I have seen other methods by which to arrive at that which I would suggest maybe some time someone should look at.

Mr McLean: There are some 60 credit unions, caisses populaires, in some problems. How would you propose to rectify those, or what would be your views on the board so that this would not take place?

Ms O'Connor: In the past 10 years, this particular organization, Ontario Share and Deposit Insurance Corp, has come out with, I think, excellent help in trying to overcome that. Most of the deficits occurred during the last recession, and unfortunately, looking at this one, we are all kind of wondering. But in between those times, OSDIC has come out with some business practice manuals, which the boards of directors of each credit union must adhere to. Information must be presented annually as to how their credit union scores against that. I think that is one avenue that has really helped in looking after units that may not be as well managed as they could have been, be it recession or not.

Mr McLean: What is the makeup of the board, the different people, backgrounds? You are from the credit union.

Ms O'Connor: I work in a credit union.

Mr McLean: How many other people on the board would be involved directly?

Ms O'Connor: At the present time, I believe, before this last set of nominations, there were no representations from credit unions.

Mr McLean: What would be the background of the people? Lay people, professionals, legals?

Ms O'Connor: Professional, legal, accountants, from what I read from their annual reports, yes.

Mr McLean: It would certainly be nice to see someone from the area being involved. I would hope there would be more than one.

Ms O'Connor: I understand there are not, but nominated.

Mr Lessard: Ms O'Connor, I understand from looking at your résumé that you are the general manager of a credit union, and I would assume that you are a member as well?

Ms O'Connor: Oh yes.

Mr Lessard: How long have you been a credit union member?

Ms O'Connor: From the length of time when I became employed.

Mr Lessard: So not since 1975, then?

Ms O'Connor: No, in 1969 I became employed at the credit union. I was appointed general manager in 1975.

Mr Lessard: Has that always been with the same credit union?

Ms O'Connor: Yes.

Mr Lessard: Which credit union is that?

Ms O'Connor: The ASCU Community Credit Union.

Mr Lessard: So that continues to be the credit union in that community. Has it gone through any changes during that time, any amalgamations with respect to that credit union?

Ms O'Connor: Our particular credit union, which formerly was chartered for Algoma Steel Corp, amalgamated with the Mannesmann Tube Credit Union, which was a unit Algoma Steel purchased, and also with what was called the Weyerhauser Credit Union, a small wood manufacturing firm. Both of them were under a million dollars at amalgamation, so it was just the three of us. In 1980, we became a community credit union, but we have elected just to remain in the city of Sault Ste Marie for the fact that it takes capital and resources to expand, so we are doing fairly well. We have grown considerably just within the community itself.

Mr Lessard: Do you have a deficit now, or is the credit union doing all right?

Ms O'Connor: My particular credit union has never had a deficit. That is one of the policies. I would not be sitting here today if there ever was one, and I understand that and I believe in that.

Mr Lessard: How did these amalgamations come about? Was this an initiative from your membership, or was it encouraged through Credit Union Central or OSDIC?

Ms O'Connor: No. The two particular credit unions came to the conclusion that they were not going to be able to expand, and approached our board of directors for amalgamation.

Mr Lessard: Do you see that as a trend in the future for credit unions for more amalgamations? Do you think there should be fewer numbers of credit unions with larger asset bases?

Ms O'Connor: I see it as probably a very good method by which to remain competitive in the marketplace.

1030

Mr Lessard: Do you think your role with OSDIC would be to encourage that sort of thing happening? Do you see OSDIC playing a role in encouraging credit unions to amalgamate?

Ms O'Connor: Only if asked, I would suggest. I do not see that as OSDIC's mandate. I believe they can be approached from units that may be looking at areas, and if that were the case, then I would believe they would give the best information they could, which may be that in this day and age for a million-dollar credit union it is extremely difficult to offer the services that the consumer is asking for.

Mr Lessard: I am not sure about this; maybe you can help me out. If a small credit union wanted to change its bond of association to a community bond, and that gave it the ability to attract members from the community in addition to those people who may come from a certain company or group, would that be something that would have to have the approval of OSDIC?

Ms O'Connor: No, I believe it is the ministry. They probably confer with OSDIC to see the financial status of the unit, but the ministry, I believe, has the final say on charters.

Mr Lessard: They may ask you for advice on those sorts of things—

Ms O'Connor: They could.

Mr Lessard: —and you would give an opinion as to whether you thought that a lot of small credit unions should have a community bond, and they would all be kind of chasing after the same potential clients. That is why I am asking you whether you would think that perhaps, in a case like that, you would try and encourage amalgamation rather than having a lot of people with community bonds.

Ms O'Connor: I would think if a unit had a good business plan then it might be advisable. But if they have not planned for five or 10 years down the road, then I tend to agree with you that you would try to assist them with other avenues.

Mr Lessard: In the act that governs the activities of OSDIC, it indicates that part of those duties is to act as an administrator of a credit union that runs into financial difficulties. Also one of the roles of OSDIC is to be the liquidator of a credit union in a case that it runs into difficulties. I know that in my own community those two purposes have sort of clashed, because once OSDIC ended up in the day-to-day running of a credit union, it appeared as though it was not doing the best job that the members thought it could, and they thought maybe it was trying to liquidate the place rather than to nurture it back to good health.

I guess the question that I am asking you is, do you think there is a problem in having those two competing purposes, and do you think there could be some changes to the act to make it easier for members to sort of take back their credit union after OSDIC moves in if they think it is not doing a job that is going to bring it back to good health?

Ms O'Connor: Not being completely familiar with how that is done, but in just general terms, I believe there is lots of opportunity for a unit to voice objections. As a board member, no doubt I would be hearing about it last, if you would, because it is day-to-day decision-making. I would look at it, if I became a board member, to see, but in my own mind, when a credit union is in difficulty and it comes to the limit that OSDIC is administering, the union has had quite a bit of opportunity to get out of that itself, usually. I have not ever been involved in that process, but I have heard from some of my colleagues in southern Ontario. They wonder about the process that was used by the Ontario Share and Deposit Insurance Corp.

I would just hope that we could be encouraged to be working for the same goal, which is strong units to serve the consumer through the co-operative movement. So in answer, Mr Lessard, I would have to wait and see. There is lots of room, but I have heard the same comments you have and, if on there, I would investigate and try to get the information one way or another. At this moment it is all perception, to me, anyway.

Mr Lessard: You think that is an area you would be prepared to look at.

Ms O'Connor: Certainly.

Mr Lessard: And recommend changes if you thought that—

Ms O'Connor: If the complaints were valid.

The Chair: Mr Silipo, there are two minutes left.

Mr Silipo: Okay, very quickly then. It is actually following up on the last question Mr Lessard put. It seems to me that part of the problem in some cases, at least in terms of why some credit unions get into trouble, is perhaps the lack of very clear guidelines, particularly with respect to conflict of interest and situations of that nature involving the board members of the credit union. Is that an area in which the deposit corporation would be playing a role, in your view, or should be playing a more active role?

Ms O'Connor: It should not be a problem, it is very clear-cut. Whether it is adhered to may be the question. Watchdogging—how many people do you have to have to continue to do that? Their sound business practices manual, if reviewed every year, is a very good watchdog, but it is up to individuals whether they are going to adhere to laws or not. It is hard to determine, but 99% do so.

Mr McGuinty: Ms O'Connor, I understand that losses resulting from fraud and dishonesty are relatively high in the caisses populaires and credit unions. I have a statistic here that, over the past four years, dishonesty and fraud were primarily responsible for 20% of the failed units by number, with over 43% of the losses in dollar terms. I do not know how that compares to banks and trust companies, but what steps do you think can be taken to reduce that?

Ms O'Connor: I guess one would be the role of hiring people who would be employed by the unions. In a high-growth time, many times you have individuals who may have been hired but do not have all of the proper qualifications. Dishonesty, and anything you read about risk management—you can have all the rules in the world, but that dishonesty factor can come in.

I do not know how that compares to the banks and trusts. I would like to see that because I do know that it happens in other places. Probably because of the size of the units it is a little more disastrous for our size than, say, the Royal Bank. If they have four or five, it means probably nothing.

But how could we insure against that? I just think it is education of the people doing the hiring, be it the board of directors, general managers, CEOs, whoever are in that capacity to hire people. I know Credit Union Central of Ontario has a very good human resources area. They assist credit unions if they do not feel they have the expertise to hire. They will hire CEOs on down for them. If units would take advantage of some of the processes that are available, it would deter that from happening.

Mr McGuinty: The existing auditing system employed by the ministry, do you think that is adequate in terms of acting as a preventive measure against fraud and dishonesty internally?

Ms O'Connor: I think it would be. We are audited annually by our own. They are in our particular credit union twice a year because of our size. Again, one of the questions is how many people you are going to employ to insure against a risk that maybe is not all that prominent. At the present time it is probably adequate.

The Chair: Thank you, Ms O'Connor. That concludes the questions and answers. We appreciate your appearance before the committee this morning and wish you well.

1040

CAMERON BAILEY

The Chair: The next intended appointee is a selection of the third party, Cameron Bailey. Mr Bailey, would you like to come forward please and take a seat? Mr Bailey is an intended appointee as a member of the Ontario Film Development Corp. Mr Bailey, would you like to say a few words before we start the questions, or do you want to answer questions?

Mr Bailey: Actually, I would appreciate hearing from the committee what the questions are.

The Chair: All right, we will begin the questioning with Mr McLean.

Mr McLean: Good morning, Mr Bailey. Were you approached for this appointment or did you apply for it, or how did this appointment come about?

Mr Bailey: I was approached by the ministry, and I understand that the OFDC itself also put forward my name. That is how it came about.

Mr McLean: Which ministry office?

Mr Bailey: Culture. Rina Fratacelli is the person who approached me.

Mr McLean: And did you get a phone call from them?

Mr Bailey: Yes.

Mr McLean: And who was the phone call from?

Mr Bailey: From Rina Fratacelli.

Mr McLean: Thank you. I see by your résumé that you have been involved in the industry for some time. Have you ever been to visit the Ontario Film Review Board, the facility where they show the films on screens?

Mr Bailey: No, I never have.

Mr McLean: I would think you find it rather interesting to see that.

A couple of the main points with regard to Canadian content. How do you believe that we could have more Canadian content in our films?

Mr Bailey: I feel the films that are being produced in Ontario right now have a tremendous amount of Canadian

content. They are produced here by Canadians and they are Canadian films. So to me it is not a matter of getting more Canadian content in the films but perhaps making more Canadian films and having them reach Canadian audiences. That to me has been the difficult part, the distribution. So I would like to see that area increase. I would like to see Canadian audiences want to go out to a Canadian film on a Saturday night as opposed to the latest American film. I think there are certain ways that we can perhaps encourage Canadian audiences to, first of all, know about these films, know that they are out there, and second, want to see them.

Mr McLean: Do you know a lady by the name of Rita Deverell?

Mr Bailey: I just met her last week, as a matter of fact.

Mr McLean: How would you meet her?

Mr Bailey: I met her at a lunch meeting.

Mr McLean: By the ministry?

Mr Bailey: That is right.

Mr McLean: And did all the people from the board attend that?

Mr Bailey: People from which board?

Mr McLean: The Ontario Film Development Corp?

Mr Bailey: No, no. That was not a board meeting at all.

Mr McLean: I have some further questions but I will wait until later, Mr Chair.

Mr Silipo: Mr Bailey, in answer to one of the last questions, you were saying what we need to do with respect to the Canadian content issue is to look at ways in which we can encourage Canadians to see more Canadian films. What kinds of things, if any, do you think the Ontario Film Development Corp could be doing in the way in which it goes about either giving out grants or setting up any other kind of mechanism? What kinds of things can the corporation be doing and what kind of a role do you think you can be playing in that process?

Mr Bailey: As you may know, we are in a situation in the Canadian film industry where we basically have our hands tied behind our backs as far as distribution goes, because the exhibition chains are sort of in a locked relationship with the American studios. So it is very difficult as far as what can be legislated to change that.

What I think the OFDC can do is to provide more funds and more support to Canadian distributors to get Canadian films on to Canadian screens, to the extent that they can do that. As I have said, it is very difficult when, as you know, 97% of the screen time in Canadian theatres is occupied by American films. That is part of a kind of economic relationship that we have with the American studios, and that is very difficult to legislate against. Efforts have been made at the federal level for years, as you may know.

But I think there are a number of Canadian distributors working with small, low-budget Canadian films in Toronto and Ottawa and various other centres in the province. They should be encouraged on a number of levels, I think, to put more money into Canadian films because, as you know, the OFDC does not fund Canadian films without a distributor attached to that project. If the distributors have more money to put into those films, we get more films made, and they have more access to the screens. It is limited, but I think it can be increased. There is a lot that can be done there.

Mr Silipo: You have been involved in a number of different areas, among which one might sort of categorize some of the alternative kinds of productions. I do not know if that is a fair categorization; you can tell me if it is. What kinds of things do you think you can bring to the corporation based on that experience you have had?

Mr Bailey: I prefer to call them the independent sector, let's say. I have been very involved in that sector. I have been very supportive of independent films as a critic, as a programmer. I think what I can bring to the corporation is a broader sense perhaps of what an independent film is. The OFDC is mandated to support independent film making in the province, but I think what I can bring are different modes of independent film making, let's say, working in different sectors.

I have been very involved in boosting films by people of colour in the province. We are at an early stage as far as film production by that sector goes. I have tried to get involved in ways of bringing those people forward, getting them to make their first and second and third films.

I think what I can bring is certainly that knowledge and that experience in that part of the independent sector, but also I think I just have a passion for supporting independent film. I have done that in a lot of cases in the face of just indifference, you know, on the part of most mainstream critics, and audiences in some cases as well, so that is what I hope to bring to the board if I am selected.

Mr Bradley: I recognize that most of the material that the Ontario Film Development Corp would be involved in would be probably non-political, although sometimes there are political overtones or undertones in some of the productions. Is it your belief that any such political content should be a balanced reflection of the province of Ontario, or do you think it is too much of a confinement on the Ontario Film Development Corp if one were to suggest that there should be some balance instead of portraying one political viewpoint or another? I do not necessarily mean partisan, I mean philosophical.

Mr Bailey: I certainly do not think the OFDC should get involved in judging a project on its political line. I do not think it does that or ever has. Certainly the board would not be involved in that sort of judging of individual projects, but the OFDC does have a mandate as far as funding culturally relevant film projects, and that I think does mean reflecting a wide range of opinions, not one more than the other, but reflecting the diversity of Ontarians.

I would definitely not want the board or the OFDC as a body to get involved in selecting a variety of political viewpoints as far as projects to fund are concerned. I do

not think that is their job. Their job is to fund film projects that are culturally relevant to the province.

Mr Bradley: There is a concern from time to time depending on what country you happen to be in. I suppose it happens in virtually any political jurisdiction that an organization such as this might be seen in certain countries to be promoting a right-wing point of view and in other countries a left-wing point of view, and in other countries it may not promote any particular point of view. In other words, the productions would be seen by some to be either one way or the other depending on what country you are in, or what individual jurisdiction. That is the context in which I ask the question: Do you think it is important that that not be the case in the province of Ontario?

1050

Mr Bailey: I would actually question that. I do not know if films made in Ontario are seen as either being right-wing or left-wing. I do not think the political element, if it is even there explicitly in a film, is the primary way that people judge films. I think that when you go to England, when you go to the United States, when you go to different countries and you ask them what they think of films made in Ontario, they will cite aesthetic qualities. They will say whether they like the film or not, whether it was successful, whether it engaged them or was interesting. I do not really feel that there is a sense out there that the OFDC within Ontario is producing films with a particular political point of view. I do not really see that as an issue for the OFDC because I do not think it has ever been an issue as far as what it funds and the films that are produced through that body.

Mr McGuinty: I do not have the information in front of me right now, but I recall looking at something which said that the number of American films being shot in Ontario has reduced for the past few years. Do you have any ideas that you might suggest in order to attract more American film shoots up here?

Mr Bailey: This is something that I would really have to look into a little bit more because I do not know all of the factors that an American studio uses to decide whether or not it will come here or go to New York or Cleveland or England. So I would like to learn more about that before I could comment fully. I do think, though, that certain factors that are almost beyond our control have gone into the decline. There is something known as location burnout, where they come to shoot in Toronto to make it look like New York, and you can only do that so many times before you begin to see the same alleyways over and over and over again.

Certain things like that we cannot control, but I do think that we already have quite a solid infrastructure going as far as encouraging American film investment. I know that the Toronto film liaison office in the OFDC makes regular trips to Los Angeles and New York to encourage investment here. I think we are doing a good job, but I just think there are a number of structural factors that we cannot really control at this point.

Mr McGuinty: I think from your previous answer to my colleague here I detected a healthy scepticism, a reluctance to become involved in anything political. Having said that, though—it is a question I asked of the other person who appeared before us last week; Ms Deverell, I think it was—in the context of our constitutional dilemma, does the OFDC have a role to play there in promoting Canadianism, if there is such a thing, or a Canadian perspective, or some projection of unity?

Mr Bailey: I think those are two different things that you just mentioned—the Canadian perspective and unity. I think the OFDC is mandated to project a Canadian perspective in the films that it funds, and it has done that. Whether that means getting into promoting a particular point of view as to what a Canadian perspective is and which particular Canadian perspective it chooses to emphasize is something I would not want to see the board get into as far as promoting a particular line of what it means to be Canadian. I would like to see them reflect, as I think they have done for the most part, a diversity of points of view on being Canadian and how you can reflect that in a film.

I understand the significance of what is going on right now as far as the Canadian unity issue is concerned, but I do not think it is the place—this is my own opinion—for a body like the OFDC to get involved in pushing a particular line on that.

Mr McLean: Are you still a teaching master at York?

Mr Bailey: No, that was just a one-year appointment.

Mr McLean: What are you doing now?

Mr Bailey: I am a film critic for Now magazine and for a number of other publications. As well, I program films for the Festival of Festivals.

Mr McLean: Do you still enjoy doing the Saturday night movies?

Mr Bailey: Actually, that was also just a one-of thing. That was fun. Television is not my forte, but that was fun to do that one time.

Mr McLean: You have excellent credentials, and I think you are an excellent choice. I wish you luck.

Mr Bailey: Thank you.

Mr Lessard: Mr McGuinty had asked something about encouraging outside investments in Canadian films and encouraging American filmmakers to come to Canada. Is that part of the role of the OFDC?

Mr Bailey: It is. They are involved not only in supporting Canadian directors and writers, but in supporting the Canadian film industry, and that means technicians as well. So technicians need to work. They do not work only when a low-budget film is being produced, they need to work all year round, obviously. So part of that means a certain proportion of the films that are shot in the city will be funded from outside. They will be big Hollywood productions or European co-productions or something like that and that is just a part of maintaining a film industry in the province.

Mr Lessard: You said those productions have been decreasing.

Mr Bailey: Yes, slightly.

Mr Lessard: I am going to suggest to you—and you can tell me whether you agree or disagree—that maybe part of the reason that they are decreasing might have to do with the high Canadian dollar or the high interest rates that we have been experiencing in the past few years. Would you agree or disagree with that?

Mr Bailey: As I said, I really need to research more all of the different factors. Those may well be factors as well. I know there are a number of things that are going on as far as the decline goes. I do not know the full reason for it.

Mr Wiseman: One of the comments made by Carla Hills, who is the negotiator for the Americans in the free trade deal, is that she wants to see the opening up of film and the cultural sections of the free trade deal in these North American trade negotiations. Have you given any thought to positioning yourself or what position you would like to take with regard to that, because I see that as a very serious threat to Canadian cultural productions.

Mr Bailey: Well, it is ironic that she would say that because the Canadian film industry is obviously in bondage almost to the American industry at the moment. As I said, 90% of the screen time is occupied with American films. So I do not really feel they are at any disadvantage as far as access to our markets. I would hesitate to suggest that they increase that. It is almost perverse that that would be suggested, because I think there needs to be a much stronger Canadian control over the Canadian film industry. However that happens, I think that is what needs to happen.

Mr Wiseman: It sounds like you and she are going to have a difference of opinion.

Mr Bailey: It does sound like that.

The Chair: Thank you very much, Mr Bailey. We wish you well.

Mr Bailey: Thank you.

The Chair: Thanks for appearing before the committee today.

This is a little bit unusual for me, but I did have a request, and I will convey it to the committee, that we give consideration to dealing with the appointment of—I lost my piece of paper.

Mrs Haslam: Mr Chair, I agree. We are taking a break in the next week and I wondered if a motion would be in order that we deal with both of these interviewees now and make a decision now while we are all here.

The Chair: The motion will be in order if indeed we have unanimous consent to deal with it at this point. That is the only way we can do it. Do we have unanimous consent to consider the two intended appointees now rather than waiting until 29 May? Hearing no objections, we will consider motions on the floor on a separate basis.

Mrs Haslam: I move that we consider the intended appointment of Rosemary O'Connor and Cameron Bailey at this meeting.

The Chair: No, we do not need that. We will just have the concurrence.

Mrs Haslam: Oh, a motion to concur. I am sorry. I misunderstood.

The Chair: On an individual basis with each intended appointee.

Mrs Haslam: Thank you, Mr Chair. I misunderstood what you had anticipated.

The Chair: Mrs Haslam moves the appointment of Rosemary O'Connor to the Ontario Share and Deposit Insurance Corp.

Motion agreed to.

The Chair: Mrs Haslam moves the appointment of Cameron Bailey to the Ontario Film Development Corp.

Motion agreed to.

The Chair: Before we wrap up, I just want to remind members that this has provided a bit of relief, I guess. May 29 is a pretty full schedule. We are starting at 9 o'clock in the morning and hopefully we will get through.

Mrs Haslam: That is a change in our agenda, then?

The Chair: Yes.

Clerk of the Committee: All but two are confirmed, and I will have an agenda to you as soon as I hear from those two, probably today or tomorrow.

The committee adjourned at 1100.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 29 May 1991

The committee met at 0910 in room 151.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

MARC ELIESEN

The Chair: I call the meeting to order. The first item of business on our agenda this morning is the one-hour review of Marc Eliesen who is the intended appointee as the chair of the Ontario Hydro board of directors. Mr Eliesen, would you like to come forward and take a seat at the witness table, please. Anywhere there is fine.

Mr Bradley: Are there three Conservatives coming too?

The Chair: I hope so.

I want to welcome you to the committee, Mr Eliesen. Your selection in respect of you being before the committee today was a decision of the official opposition. I like to offer witnesses an opportunity for a few brief comments if they wish. Would you like to do that before we get into questioning?

Mr Eliesen: Yes, Mr Chairman. In fact, I have copies to be circulated to members of a brief, three- to four-minute opening statement.

The Chair: Fine.

Mr Eliesen: I feel privileged and honoured to be the Premier's nominee for the chair of Ontario Hydro. If the committee approves the recommendation, I would welcome the challenge and opportunity associated with the job.

You will have received a brief background on my professional work experience. As you can see, while I have worked in the private sector, I have had a 25-year career in public service in senior executive positions for the government of Canada and for the provinces of Ontario, Manitoba and British Columbia.

For the last 10 years, I have been extensively involved in the energy and utility sector.

From 1982 to 1984, I held the position of Manitoba Deputy Minister of Energy and Mines.

From 1982 to 1988, I was the chair and chief executive officer of the Manitoba Energy Authority. This crown firm has legislative responsibility for energy allocation, electrical energy marketing, managing and co-ordinating the employment and industrial activities of hydraulic generation projects and promoting the development of energy-intensive industries in Manitoba.

From 1984 to 1988, I was the chair of the board of directors of Manitoba Hydro. During that period, the utility operated profitably, increased its financial reserves for three consecutive years and maintained its position as the lowest-cost electrical service in Canada.

Also during that period, the 1,200-megawatt Limestone generating station was developed in an environmentally responsible manner sensitive to the needs of aboriginal people and northern Manitobans.

This clean renewable energy project resulted in no major flooding of the landscape and minimal environmental impact. It was built for less than $1.5 billion, more than $1 billion under the original cost estimate of $2.52 billion, and had aboriginal people representing 25% to 40% of total employment, the largest aboriginal workforce of any major construction project in North America. Further, about 3,000 northerners, mainly of aboriginal ancestry, were provided with specialized and technical training in carpentry, heavy transportation, machinery and cement work, skills which remain to be utilized in aboriginal communities today.

In 1989 I joined the management consulting firm of Stevenson Kellogg Ernst and Whinney, later Peat Marwick Stevenson and Kellogg, as partner and national director of government services. Based in Ottawa, I was responsible for organizing and co-ordinating the company's resources and expertise in providing strategic public policy to senior management in government and the private sector on a wide variety of issues with emphasis on energy.

Then in April 1990, I was appointed Deputy Minister of Energy in the government of Ontario by the then Premier of Ontario, the Honourable David Peterson. Subsequently, I have also assumed the position of president of the Ontario Energy Corp and a director of the Suncor corporation.

Before responding to your questions, I would like to make some brief observations on Ontario Hydro.

Under the Power Corporation Act, it is Hydro's responsibility to generate supply and deliver reasonably priced and reliable electricity throughout Ontario. As a public corporation established to meet the needs and expectations of the people of Ontario, the utility has to vigorously respond to changing social, economic and government priorities to ensure that those needs and expectations are met.

The government's policy directions for Ontario Hydro are set out in the new energy directions, announced in the speech from the throne in November 1990. These directions established a very challenging role for Ontario Hydro, setting energy efficiency as the first priority in meeting Ontario's electricity needs. The government is also expecting an aggressive role for Ontario Hydro in supporting the development of parallel generation in the province, particularly cogeneration and renewables.

Other elements of new energy directions include ensuring that northern and native communities benefit from Ontario Hydro's proposed and ongoing activities.

There are also some major operational issues that must be addressed at Hydro as well. These include raising the

operating capability and reliability of the existing nuclear system back to levels closer to planning targets while assuring the highest possible levels of public safety, and containing cost pressures now resulting in much higher electricity prices.

These are issues which I know are already a major part of the agenda being followed by the senior executive at Hydro. If confirmed by this committee, I would look forward to being part of the team at Ontario Hydro charged with these responsibilities.

Thank you very much for your attention.

The Chair: Thank you, Mr Eliesen. We will begin the questioning with Mr McGuinty.

Mr McGuinty: As you know, the Power Corporation Act provides that the board of directors of Hydro is to appoint the president and also provides that the president is the chief executive officer of the corporation. That second reference about the president being the CEO came about as a result of an amendment introduced in 1989 pursuant to a recommendation contained in a report prepared by a Mr MacIntosh. You are probably familiar with that report.

In any event, Mr MacIntosh made compelling arguments to the effect that it was crucial to have a chairman and a CEO as two different persons. He argued that the chief executive officer of a corporation with $39 billion in assets, $6 billion in revenues and some 27,000 employees should be involved in the day-to-day management of the company. On the other hand, he argued that the chairman had a responsibility to provide sober second thought to the board and also to act as a conduit from the government to allow the government to inject policy and to review policy.

Other significant amendments to the Power Corporation Act provided that Hydro was to respect policy statements made by the government and also was to enter into memorandums of understanding on a fairly regular basis that again would compel Hydro to again follow government policy.

Do you believe, Mr Eliesen, that the existing legislation ought to be changed, and if so, why?

Mr Eliesen: First of all, I should say I am not aware of the MacIntosh report. I assume you are referring to Alex MacIntosh, who is one of the current directors of the board of Ontario Hydro.

Mr McGuinty: Yes.

0920

Mr Eliesen: I have not seen the report, so I am not aware of the report.

I would answer your question in the following manner, that up until 1989, or I guess for the 83 years or the 85 years that Ontario Hydro has been in existence in various forms, the chair has been as well the chief executive officer. When you look around the country, this is the same practice in other major utilities, whether in British Columbia or Alberta or Saskatchewan or Quebec, Nova Scotia, New Brunswick and Newfoundland. So I just note for information that this has been a practice for utilities across Canada and still exists in most of the other utilities.

I think personally that this is a matter of government policy, and if the government of the day decides to reverse what took place in 1989, then I am prepared to assume that particular role. I certainly believe I have the expertise and the background to do so, but it is my understanding I am here before you simply as the nominee for the chair of Ontario Hydro and not the chair and CEO of the utility.

Mr McGuinty: Do you feel that a change in the law that would provide that the chief executive officer would be the chairman would enable government to have better control over Ontario Hydro?

Mr Eliesen: Clearly it is not a matter of control over Ontario Hydro. The control elements should be clearly spelled out in the Power Corporation Act, and if the government of the day believes that there are inadequate provisions in the act, then it is incumbent upon it to introduce them.

The position of chair and chief executive officer clearly, as it has been practised for many years here in Ontario and is still existent in other corporations, really reflects the fact that it does provide the chair the opportunity to be the chief executive officer of the corporation and to provide the overall direction, rather than simply being head of a board of directors and chairing that board of directors.

Mr McGuinty: So are you saying then that making the chair the CEO would not give the government better control?

Mr Eliesen: It can work both ways. The control element, in my judgement, has to be clearly spelled out in other provisions of the Power Corporation Act. Personally, I have never regarded the CEO attachment to the chair as one method of giving government, so to speak, control. The control elements should be reflected in provisions in the act itself.

Mr McGuinty: The board, as I am sure you are aware, has now appointed as president and chief executive officer Alan Holt. The minister has said, "Mr Holt is an able and competent person." The eight directors presently sitting on the board have said, "Mr Holt is eminently qualified to serve as president of Ontario Hydro." Do you agree that Mr Holt is fully qualified to serve in that capacity?

Mr Eliesen: Let me make two observations, Mr McGuinty. First of all, I believe it was not prudent for the existing board of directors to make an appointment, given the fact that five new members were about to join the board of Ontario Hydro. I believe that the current president and chief executive officer, Robert Franklin, had a contract to stay on until 1 September. I have not spoken to any of the existing board of directors and I am not aware of any reasons of urgency which necessitated such an appointment to be made in such a short period of time.

Having said that, I have worked with Mr Holt in the past in my capacity currently as Deputy Minister of Energy. I believe Mr Holt is a qualified individual, and it is my intention that, if confirmed in this position as chair of Ontario Hydro, I would work with Mr Holt and with the existing as well as new members of the board of Ontario Hydro to provide effective management.

Mr McGuinty: Have you had discussions with the Premier or the minister or anyone from the Premier's office regarding your candidacy for this position?

Mr Eliesen: I became aware of the fact that it was the government's intention, as the legislation establishes, that separate individuals hold the position of the chair and the president's position, and I made it known to my minister and then to the Premier that I was interested if the position became available.

Mr McGuinty: Have you had similar kinds of discussions regarding your candidacy for chief executive officer of Hydro?

Mr Eliesen: I have been made aware of government's intentions with regard to the future, but I believe it is not incumbent upon me. I still hold the title of a professional public servant and I am still deputy minister. I think it would not be prudent for me to announce any government policy. I think the responsible minister, obviously, if there are any changes, will have to make the announcements on those changes in the future.

Mr McGuinty: Okay. Leaving aside government policy, are you interested in the job, chief executive officer of Ontario Hydro?

Mr Eliesen: If you are asking me if, hypothetically, legislation is introduced to reverse what took place in 1989, yes, I certainly would.

Mr McGuinty: Are you aware of how the board feels about your being made chief executive officer?

Mr Eliesen: I indicated earlier, Mr McGuinty, that I have had no discussions at all with the board in general other than an informal discussion of a couple of hours with Gordon Bell, who is the vice-chair of Ontario Hydro.

Mr McGuinty: It is my understanding that the board has indicated that you "do not have the experience and proven managerial record"—and I am quoting—"to qualify as the chief executive officer." How would you respond to that?

Mr Eliesen: I am afraid I cannot respond at all. I am not aware of the observation or the judgement being exercised. I believe my background, which I briefly summarized, would provide sufficient information to reflect the fact that I have had major responsibilities and I have carried them out quite successfully. I am very proud of the efforts I have undertaken in the past in the energy and utility sector and I will let the record speak for itself.

Mr McGuinty: I understand that you have asked the board, pending any change in legislation, to appoint you as president and chief executive officer. Is that correct?

Mr Eliesen: No, sir.

Mr McGuinty: I have a copy of a letter here dated 14 May signed by eight directors of Ontario Hydro. I am quoting from page 6, "Mr Eliesen has also requested that the board, pending any change in the legislation, appoint him as president and chief executive officer." How do you respond to that, Mr Eliesen?

Mr Eliesen: That statement is false, sir.

Mr McGuinty: So the eight people who have signed are telling an untruth.

Mr Eliesen: Sir, I have no basis upon which they make that statement other than that I have exercised my role as Deputy Minister of Energy of communicating to the vice-chair of Ontario Hydro and to the chairman at that time—he still is the chairman, in fact—certain intentions of what the government intended to do in the future, and that was communicated further in written form by the responsible minister. I am afraid that is all I can say on that issue.

Mr McGuinty: How would you describe the relations at this time between this government and Ontario Hydro?

Mr Eliesen: Well, I think the relationships are quite good. I have not noticed, in my capacity as Deputy Minister of Energy, from the previous government and the current government any significant changes in terms of working relationships. I think the board and management are responding to the long-term policy goals of the government, and certainly I have no qualms in my existing capacity as Deputy Minister of Energy that there is a lack of response in this area.

Mr McGuinty: How can you say that and at the same time we have Bob Franklin resigning as president and chair? We have this apparent insurrection of the board proceeding to appoint a president without consulting the government.

0930

Mr Eliesen: Mr McGuinty, all I can refer to is the public record. Bob Franklin indicated that he wanted to seek other paths, and particularly in the private sector. Certainly my understanding is that is what he informed the Premier. It is my understanding he was asked to stay on for another period of time. He had stayed there for five years, but both public and private comments he has made certainly indicated the reasons why he has decided this time to leave Ontario Hydro.

With regard to the word you used, "insurrection," I would not be so pejoratively strong in that kind of language. I indicated earlier I thought it was imprudent and I am not aware of the reasons for the kind of haste the board made in appointing the new president. However, having said that, Mr Holt is a competent and able individual and it would be my intention, if confirmed in the position, to work very closely with him.

Mr McGuinty: You must be aware that the coalition of environmental groups made up of Friends of the Earth, Greenpeace and the Nuclear Awareness Project are strongly opposing your appointment as chairman. I have a letter here dated 2 April 1991 to the Premier and they say, second paragraph, "Mr Eliesen has publicly taken a fundamentally pro-nuclear, anticonservation position, and has been notably inactive in pursuing the government's pro-conservation and nuclear moratorium policies." They go on to say, "He has spurned meaningful public consultation." They also say, "It would appear that Mr Eliesen has not been able to let go of the supply-side (environment be damned) focus he gained as chairman of Manitoba Hydro." How do you respond to that, and how do you intend to work with these groups?

Mr Eliesen: Mr McGuinty, if what they allege is true, I too would be against my candidacy for the chair of Ontario Hydro. I have never taken a pro-nuclear, anti-conservation position. I have not been notably inactive in pursuing the government's pro-conservation and nuclear moratorium policies. I cannot answer the allegations that are being made. I believe the question should be addressed to those individuals.

I am a professional public servant. I have been actively carrying out the policies of the current provincial government, and these have included the implementation of the policy of the nuclear moratorium on new nuclear generating stations. I think the results, in terms of significant increases in Ontario Hydro's demand management, which is going from 100 million in 1990 to 330 million in 1992, is also reflective of that.

There have been major changes in energy conservation in other ministries, such as Housing and Government Services and Transportation, and furthermore, there have been substantial increases in the ministries' allocation for expenditures on energy efficiency programs, over about 150%. I think the facts speak for themselves in the whole context of energy conservation.

Mr McGuinty: You have advocated, or felt—maybe that word is better—there was great promise in developing the Moose River drainage region. It has the potential, as I understand it, for 14 hydraulic sites to be built over 30 years. The Moose River-James Bay Coalition, you are probably aware, has intervened in the demand-supply hearings, since it opposes developments in the Moose River basin. This coalition, which consists of seven first nations and organizations, is also very concerned about your appointment and has raised matters which I would like to put to you here.

The first question would be, if appointed, would you support a moratorium on hydraulic sites in the Moose River basin, pending the outcome of a comprehensive, cumulative impact assessment which examines the impacts of existing and proposed hydraulic and other developments of the Moose River basin, James Bay and Hudson Bay?

Mr Eliesen: Let me answer your question in the following way. First of all, I am one member of the board, if appointed to the position. I am just one member of many other members of the board of Ontario Hydro. I think that should be taken into account.

Having said that, I think my way of dealing with aboriginal groups and their real concerns are reflected in the letter which you have received from Elijah Harper. Elijah Harper has written to the committee, and I am very thankful for his comments and his efforts, because he notes the manner and method by which aboriginal concerns were dealt with, and dealt with quite effectively, in the province of Manitoba. It would be my intention to recommend to the board of Ontario Hydro a different manner and a different approach of dealing with aboriginal matters in hydraulic development.

To answer your specific question, with regard to specific new hydro development—and we are not talking about rebuilds or extensions, that is, Mattagami rebuilds—yes, I would support and I would encourage members of the board to support a cumulative assessment for the Moose River basin.

I cannot comment on James Bay in general. I would have to look at that area, but certainly for any activities that are proposed by Ontario Hydro, there should be, together with the active participation and involvement of aboriginal groups themselves, planning studies for such a cumulative assessment project.

Mr McGuinty: This coalition is also concerned about possible fast-tracking of the environmental assessments for the Hydro projects at Moose River and at Little Jackfish, and for the purchase of power from Manitoba. Do you support fast-tracking in those instances?

Mr Eliesen: I am not aware of any fast-tracking procedures currently under way. There is, under the Environmental Assessment Board, a review of Ontario Hydro's demand-supply plan for the next 25 years, which includes some of the projects you have referred to, and those deal with the question of need. There is also caused to be undertaken, in a simultaneous way, site-specific environmental assessment of the Beck station in Niagara Falls, the Manitoba transmission line and Little Jackfish and the Mattagami rebuilds. There is no specific fast-tracking, in the way that I understand it, taking place.

Having said that, I believe those northern energy projects cannot and will not take place until there is the active involvement, participation and joint decision-making by the aboriginal groups who are affected in the areas where those developments are to take place. I think this is the kind of approach I recommended to my colleagues in Manitoba, which was adopted, and which, again, if appointed in the position, I would recommend here in Ontario.

Mr McGuinty: In Ontario at present, there are, as I understand it, three—

Mr Silipo: Is this the last question?

The Chair: This is your last question. I have about a minute.

Mr Bradley: Are we cutting the opposition off?

Mr Silipo: No.

Mr Bradley: We must be getting too close to the truth. That is the trouble with this committee, of course; we are so limited in the time.

The Chair: You are going to lose that last question if we do not speed it up here.

Mr Silipo: It should be noted that the time was decided by the opposition.

Mr McGuinty: There are three basic ways to generate electricity in this province: through fossil fuel, nuclear and hydraulic. What do you feel about the nuclear option? Does it have a place in Ontario's future?

Mr Eliesen: Let me answer your question in the following way. I would not personally describe myself as either pro- or anti-nuclear. As a form of technology in the generation of electricity, nuclear has some pluses, but unfortunately it has problems which cause great concern.

As an active participant in the development and implementation of the government's moratorium on new nuclear generation development, which I support, I would make the following observations. With Darlington coming on stream, approximately 60% of the generating capacity for electricity in the province will be nuclear. This is the second-highest level after France. While nuclear plants have operated in this province with a high level of safety, further expansion and higher dependency rates should be carefully reviewed.

The second point I would make is that I am concerned that over the last number of years there has been a significant deterioration in the operational performance of the nuclear plants here in Ontario. Ontario Hydro has planned nuclear plants operating at an 80%-plus capacity factor. This has deteriorated significantly, down to 62% at present. I think this has called into question the long-term economics of nuclear plants.

With these two observations, I believe the review currently under way by the Environmental Assessment Board, which will review the nuclear option, provides a breathing period to look at the economics seriously and to see what is the best form for any additional supply options if they are required in the future.

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Mr Jordan: First, Mr Eliesen, I would like to congratulate you on being chosen as the government's choice for chairman of Ontario Hydro.

Mr Eliesen: Thank you, Mr Jordan.

Mr Jordan: I thank you for your participation in the estimates committee last fall and the information that you were able to bring forth to the committee at that time.

Following my colleague's line of questioning and concerns, you indicated that just being chairman of Ontario Hydro does not put you in a position to carry out government policy per se, that you would see being chairman and chief executive officer the real position you would require to carry out your duties. Is that a correct interpretation of the questioning to date?

Mr Eliesen: No. I have indicated that I am here before the committee as the nominee for the chair of Ontario Hydro. I was asked in a hypothetical way whether I would be interested in being the chief executive officer and I replied in the affirmative. I am prepared to carry out either role, whatever is offered to me and confirmed.

Mr Jordan: Do you see a problem in, as chairman, attempting to carry out government policy with a president who has come up through the ranks of Ontario Hydro and who knows the operation of one of the largest utilities in North America and perhaps in the world? Are you going to see a problem there in a conflict of ideas for future planning and so on to try and implement government policy in conjunction with how the new president and chief executive officer might see the operation of Ontario Hydro at present?

Mr Eliesen: No, I do not anticipate any problems, as I indicated in response to the earlier question posed in this area. I think it is incumbent upon government to clearly articulate to Ontario Hydro what the long-term policy is, and if the current Power Corporation Act is inadequate for that purpose then there should be amendments applied to the bill to clearly reflect that.

Mr Jordan: So if there were to be changes, that the government could not accept the present appointment of the board as the chief executive officer, would you be in favour of someone else in that position? I guess I am asking if you would like to see that position maintained.

Mr Eliesen: Again, I am reviewing what I indicated earlier. I made reference to the fact that here in Ontario, for 83 out of 85 years, the chair has been the chief executive officer. Obviously, there are additional benefits in being the chief executive officer with the chair. However, I am prepared to do either. If it is the government's intention to bring back what had existed before, then I am prepared to undertake that particular responsibility. I can work under either model.

Mr Jordan: It would appear to me that a utility of that size, taking into consideration that Mr Franklin himself, in leaving, assessed it as being quite a heavy load to attempt to carry the two positions, and that with the 25-year demand-supply plan in place and looking to the future—I cannot say that he recommended two separate positions, but do you have any view on that, looking at the size of the utility and the internal operations of it, to have someone as chief executive officer at your right hand to keep you informed and you keep him informed as to government policy and what direction the government would be wanting you to go?

Mr Eliesen: The practice here in Ontario for most of its existence, as well as in other utilities today, is that the chair has been the chief executive officer. At the same time, there has been a president and chief operating officer. I think both those individuals are required in any utility, particularly a utility the size of Ontario Hydro. There are different arguments either way. There has been reference to a report by Alex MacIntosh in this area, which I have not seen, which presumably was responsible for the changes being made in 1989. Other utilities have operated differently.

Mr Jordan: On the conservation of energy, do you see Ontario Hydro as an electrical industry in Ontario or do you see it as a utility meeting the minimum requirements of society in Ontario?

Mr Eliesen: I do not regard Ontario Hydro or any other public utility here in Canada as a method of promoting the service it provides. I do not see Ontario Hydro going out as it did in the past, as most other utilities did in the past, telling people to use electricity. I think there is a valid concern on the production and generation of energy and its impact on the environment, that the ways of the past cannot continue in the future. In terms of my own priorities, I believe energy conservation should be the number one priority.

Whether that is adequate to meet the needs of the future will remain to be seen. Ironically, we are in a position today where, because of the recession, the kind of expectation for electricity demand has not materialized. We are now at the level of demand that existed here in Ontario

two and a half years ago. The recession, in my judgement, has had a structural impact as opposed to a cyclical impact. A lot of existing capacity, I believe, will not come back.

So there is a breathing period and a useful period for Ontario Hydro to have the most aggressive and the most expansionist kind of energy demand and energy efficiency program in the province. We have the comfort level that we are not going to run out of electricity—the reliability of the system will be intact—because of what is taking place in the economy. I believe those should be the priorities of Ontario Hydro and what I would recommend to the board of directors.

Mr Jordan: There is no question that the recession is having a deeper effect on the demand for energy than any conservation program, but we cannot live in Ontario basing our future on a recession. We have to have a plan for the future. My concern is that we sit back and think this is the lowest demand for energy on an ongoing basis we have experienced in the history of Ontario Hydro, really.

Leaving the recession aside, would you see Ontario Hydro as an electrical industry developing resources to the extent that we can export and make it a real viable industry in the province, taken that we have the expertise and we have the raw materials and everything to go with it, that we could be a real dynamic part of the life of this province; or we could turn into a prune, if you will, by withdrawing from everything and just providing essential services? This is the question I see before the people of Ontario. Which direction are we prepared to go?

Mr Eliesen: I believe there is an opportunity here for Ontario Hydro, in association with the government of Ontario, to seek those opportunities and those new technologies, particularly in the energy conservation area, just as in the past. There has been specialized work done on nuclear or Candu-related technology. I think in this day and age there are evolving new technologies related to electricity which should be explored, and Ontario Hydro does have one of the largest research and development laboratories in the country.

I think the energy conservation area provides an opportunity for Ontario to be a world leader in evolving technologies. This is one area where certainly it would be my intention, if confirmed in the position, to sit down with my fellow board of directors to consider ways and means in which Ontario Hydro can actively, in association with government, progress in this area.

Mr Jordan: How do you see the present operation of Ontario Hydro? Your minister, for instance, has indicated that the ministry would be worried if someone were appointed either as chairman or chief executive officer who would not respect or have interest in the theory that a kilowatt saved is as good as a kilowatt made. Does that give you any problem in assuming your role?

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Mr Eliesen: None whatsoever. In fact, it is what I would advocate. If you can impact human behaviour with regard to the consumption of electricity and not significantly impact the environment through the supply option, then clearly it is the preferable way to go. The question in a lot of people's minds is how much energy efficiency is there? Well, it would be my recommendation to see how much we can do here in Ontario. That would be my approach.

Mr Jordan: What is there, then, about the generation or making of the product of electricity that you find so offensive to the environment? Taking all other industries into consideration—steel, mining—taking them all into consideration, why are you zeroing in on Ontario Hydro as being so offensive to the environment when the net product is one of the cleanest energies we have on the market?

Mr Eliesen: Mr Jordan, it is not only Ontario Hydro but all other industrial methods or developing methods that have had and continue to have an impact on the environment. I believe the ways of the past should not continue in the future. No technology has a total benign effect on the environment, and there are pluses and minuses with each form of technology. I think people should recognize that and try to seek the areas that have minimal impact on the environment, on the costs of the environment, and at the same time provide the needed goods and services for the people.

So if you can impact through energy conservation and lessen, let us say, the demand by 4,000 or 5,000 or 6,000 or 8,000 or 10,000 megawatts, then why flood large amounts of land through hydraulic development or why cause global warming through fossil fuel generation or why cause concern with nuclear waste and safety factors associated with nuclear if you do not have to do it? I think it is the preferable way to go as much as possible, to see what you can do by impacting society's demand for electricity.

Mr Jordan: I agree with you that the environment should be taken into consideration in any of these decisions, but in all other industries along with the electrical industry, the question still in my mind is whether we want to develop Ontario Hydro into the strong electrical industry that it is capable of being developed into or whether we want it to be just a minimum service to the people to the extent that you also want the people to change their living habits. This room, for instance, today—it is not necessary that it be air-conditioned, but it is and it provides a comfort.

So the point is, to what extent do you want to change the living habits of the people of Ontario? Like the flooding of land: if we had taken that approach 50 years ago in the electrical industry, that we just must not flood any land, that we must not have any global warming or we must not use fossil fuels, we would not have the province of Ontario as it is today. So what I am saying is, would you be in favour of developing the electrical industry, provided all the necessary environmental studies were done in a proper way, and then after they were done, would you be willing to carry the ball and move forward with that?

Mr Eliesen: Well, I believe the Power Corporation Act sets out the mandate of Ontario Hydro. Ontario Hydro does not have the mandate to develop the kind of industries that you refer to. It does have an opportunity to play in a partnership role with government in certain select areas. With regard to other industries, I believe all industries including

Ontario Hydro are changing their ways and means of production in respect to the environment.

Mr Jordan: Mr Eliesen, what is the problem you have with the storage of waste as it has been presently designed? Do you have a problem with the storage lab that we have in place?

Mr Eliesen: I think it is generally felt that we have a temporary and safe method of storing nuclear waste under the results from our current plants. There is concern with regard to the future long-term storing of nuclear waste and I am aware of the fact that significant expenditures have been made by the federal and provincial governments and utilities to seek long-term methods of storing nuclear wastes. The verdict is still out and there will be quite an extensive environmental assessment process as to what is the safest method of storing that waste over the long term. So it is not as if I have problems right now. I think it is a concern that society in general quite rightly has pointed to. I believe the proper kind of investigation still has to take place with regard to the long-term storing of nuclear waste.

Mr Jordan: You have visited the long-term storage site, have you not?

Mr Eliesen: I did. I was out in Manitoba and I have seen the experiments that are under way there.

Mr Jordan: Do you have a degree of satisfaction with that?

Mr Eliesen: I am interested in acquiring more information. There is a review about to be initiated by the federal government in this particular area and I certainly will be interested in following the results of that particular investigation.

Mr Jordan: I am sure that investigation will be positive. To the point that you were able to accept it, then, that would end any problem you would have with using nuclear as a method of making steam to run the generator?

Mr Eliesen: No, it is not a problem I have, as I mentioned earlier, with regard to nuclear being used as a method of generation. As I mentioned, all technologies have pluses and minuses and whether people like it or not, it is a fact of life here in Ontario that 60% of our electricity is generated through nuclear.

I pointed out earlier that initially I was more interested in the economics of generating electricity through nuclear. I pointed out some of the current operational problems which have limited the operational performance of the current system, plus the heavy dependence of nuclear, both of which would cause anyone concern with regard to the long term. I think all of these require a particular judgement as you proceed into the future. That is why to me, energy conservation should be the highest priority, to the degree that if you do not need an additional supply coming from any other source, then clearly it is the preferable route to go.

Mr Jordan: I do not think that any of the political parties have an argument regarding conservation as being a good method or a good tool of management. Regardless of what industry you are in, you should not just be making the product to throw it on the street. It is being made for a use.

The conservation that Ontario Hydro has been in since 1967 is more than a conservation of the product; it is a conservation to the extent that it is more or less changing the way of life of the people. We are becoming accustomed to controlled environments. You go into many large homes today and they are not opening windows to cool or to have a breeze. It is a completely controlled environment. The house is insulated to the extent that you have to bring in fresh air to maintain the oxygen level in that home. This is a type of living that the people of Canada, Canadians in Ontario especially, are accustomed to and look to. I think we have a responsibility to continue that style or level of living and to do that we have to come up with the product to supply.

You mentioned economics. What is the cost per kilowatt-hour today to generate by nuclear? Could you tell us that?

Mr Eliesen: I am afraid I do not have the figures in front of me. Roughly 4.1 cents is the 1990 average, I believe, for the nuclear plants of Ontario Hydro compared to about 4.7 for fossil and roughly around 1.0 or 0.9 for hydraulic, or something like that.

Mr Jordan: Is natural gas not up near 10 cents?

Mr Eliesen: I am afraid I do not have the figures. It all depends on how natural gas is used; whether it is base load or whether it is peaking, etc.

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The Chair: This is your last question, Mr Jordan.

Mr Jordan: Yes. In that I am thinking primarily of the future demand, if I believe in Ontario at all I cannot concentrate on a recession. I am looking to the recovery, and I am looking to a strong recovery. In that light, given that the storage facilities as set out in the lab you visited were acceptable to you, and the hearings that followed, would you be prepared then to move forward with nuclear energy in the province of Ontario so that industry could plan ahead 10 years, 15 years, or whatever is the requirement, in order to be able to have a strong policy at its board meetings instead of an unbalance, which it has today?

Mr Eliesen: Let me tell you very emphatically that coming with a utility background I believe in the integrity and reliability of an electrical system which is a necessary and sufficient condition for residential and industrial living, wherever you live. I believe the integrity of the electricity system should not be compromised.

Having said that, I believe we are in a current period, a breathing period so to speak, where we should do everything possible in energy conservation, in non-utility generation, and in improving the operational performance of the existing system. If I were forced to recommend a decision to government, I would not recommend the nuclear option because of concern with the economics, unrelated to the other factors that have been mentioned.

Mr Jordan: Excuse me, but you just mentioned it was the cheaper per kilowatt-hour.

Mr Eliesen: I am suggesting to you that with an operational performance of 62%—

Mr Jordan: Excuse me, but you just mentioned it was cheaper per kilowatt-hour to generate by nuclear.

Mr Eliesen: The figures I gave you were averages. We are not talking about marginal price costing. The new stations and the problems we are having will be reflected in the books of Ontario Hydro. That is why Ontario Hydro is forecasting almost double-digit increases in electricity prices for the next few years, because the nuclear system is not performing as it should. That is why last year—

Mr Jordan: Could I interject there. The problems are in tubing and things related to steam. There is nothing wrong with the nuclear fraction of it. You can have that using any fuel.

The Chair: Let Mr Eliesen finish his answer. We cannot have a debate. We just do not have the time.

Mr Eliesen: The tubing is one aspect. There are other problems as well, as we are seeing with the Darlington station that was supposed to come into operation two years ago, and it is still not there. It is my hope and expectation that Ontario Hydro will be able to bring that on as quickly as possible. I think the operational problems of the nuclear system right now will involve—it has received the approval of the existing government and Ontario Hydro's board of directors—hundreds of millions of dollars. I think we will have to reflect on that and compare the economics at the end of the day.

Mr Wiseman: I would like to go down a slightly different road than we have been going down. To start with, there has been mention made that we should be world leaders in terms of electrical energy generation. I would like to start just by setting the background so I have some information. How much is it costing to build the nuclear power generating station at Darlington?

Mr Eliesen: I do not have the current figures in front of me, but roughly about $12.5 billion is the current estimate.

Mr Wiseman: How much excess capacity is available in the system now in Ontario?

Mr Eliesen: Again, this relates to different periods of time, whether it is winter or summer. Last year, because of the poor operational performance of the nuclear system, Ontario Hydro had to import 10% of its requirements in order to meet the demand that existed within the province. Just reflecting on last year, there was not much of a surplus there to meet the demand requirements—

Mr Wiseman: This is because Darlington is only operating at about, what? 20% capacity?

Mr Eliesen: It is a combination of a number of reasons. The existing nuclear system, which includes all the units, has not been operating at what Ontario Hydro had forecasted, which was 80%-plus. We are operating at a 62% level. It also will reflect the delays that have been experienced in Darlington units 1 and 2 coming into operation. Those two factors were the main reasons responsible for Ontario Hydro having to import roughly 10% of its requirements last year.

Mr Wiseman: Okay. Now I would like to go down another route, because I do not agree with Mr McGuinty. I think there are at least two other sources that could lead to generation of electrical supply.

I would like to talk a bit about methane gas. The Eastern Power Co has set up a generation station at the Brock West landfill site. They are so happy with it now that they are thinking of expanding it. I know that the Ministry of Energy has contributed to the funding of that. I would like some of your comments on the potential and the possibility of expanding that kind of generation station to perhaps Keele Valley, Britannia and other landfill sites that are currently just spewing out the methane gas, a greenhouse gas, and perhaps looking at research in the future to use the methane gas from biodegradable material as a source of cheap fuel for the generation of electrical energy.

Mr Eliesen: The Ministry of Energy has certainly supported those kind of efforts. There have been programs in the past, as well as currently, to provide incentives for those kinds of developments. Clearly methane gas is a negative factor. With regard to global warming and with regard to landfills, where that methane gas is emanating from, energy-from-waste projects certainly provide a very attractive development to take place.

I do not believe, though, and I would have to check with greater expertise than I have in front in me, that the amount of methane gas that you would get from landfills would be highly significant, but that is a factual matter that can be looked into. Certainly to the degree possible as many plants as can be economically operated from these landfill sources should be undertaken.

Mr Wiseman: This leads me to the next part of the equation then, and that is the buyback plan that would be necessary in order to make these plants viable in terms of economics. Would Ontario Hydro be prepared, or is this something that would have to be mandated by the Ministry of Energy and the government, to increase the per-kilowatt-hour of buyback in order to make these small generating stations viable throughout the province?

Mr Eliesen: The buyback rate from Ontario Hydro has never been a static figure. In fact, as recently as January this year there have been increases of up to 20% in the buyback rate. The whole notion of Ontario Hydro's buyback rate, of course, is one of the major items being reviewed by the Environmental Assessment Board. In the context of the definition, whether the true avoided costs are being reflected in the buyback rate will come out in the hearings and the recommendation by the commissioners. But Ontario Hydro in the past, as well as currently, has made significant adjustments in the buyback rate for all forms of non-utility generation.

Mr Wiseman: Can you give me a number on what the current buyback rate is?

Mr Eliesen: I am afraid I cannot. I do not have it in front of me. It depends on whether it is above five megawatts or not. I can give you that information later on.

Mr Wiseman: Okay, I would like that at some point.

I would like to go down another track, research and development within Ontario Hydro to maximize the efficiency

of fuel use. One of the areas where I am really keen on seeing some movement is in the use of hydrogen as a fuel and the use of hydrogen in Ontario. I know the Germans—it used to be the West Germans, but now that they are unified it is the Germans—have done a tremendous amount of research into the use of hydrogen, hydrogen hydrides, as storage containers, and the ability to use hydrogen and move it around in a safe way and to use it in jet airplanes, submarines, cars and so on.

Does Ontario Hydro have a role to play in that kind of research and development if it can also use the excess capacity at off-peak hours to generate hydrogen and then burn that hydrogen in stations to generate electricity in peak hours?

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Mr Eliesen: I believe there is a role for Ontario Hydro. I think in the past the main role has been through the Ministry of Energy. There have been efforts over the last number of years with the other provincial governments and the government of Canada to provide some funding for the electrolysis of water, and clearly those provinces and those utilities where falling water represents a major portion of electricity generation, such as British Columbia and Manitoba and Quebec, have been the main innovators. But still there is room and opportunity for some support and some development by Ontario Hydro.

Mr Wiseman: My last question, because I am getting the hook here—and I can go on for ever. In the past, the philosophy of—

Mr Curling: Do not go overtime here.

Mr Wiseman: Yes, I know. You have not got any left.

The philosophy in the past for the generation of electricity is "Big is beautiful." That is why we have an Ontario grid system and huge nuclear power stations, and we tend to localize our power production in major projects.

My understanding is that there are somewhere in the neighbourhood of 625 falling-stream areas in Ontario that could be, without serious damage to the environment, used for small generation of electrical energy that could then be used in the local communities, thus freeing up the major grid systems for either export or the expansion of industries in Ontario.

I would like you to comment on whether or not you see this as an important road for Ontario Hydro to go down, researching the small technology that will generate one or two kilowatts and then feed that back into the line, in terms of the cost of $12.5 billion for a large nuclear station.

Mr Eliesen: Yes, Mr Wiseman, I believe in fact there is a significant program in Ontario Hydro, as well as through the Ministry of Energy, to encourage those kinds of developments. There are, at the same time, particular institutional barriers which limit the development, and this is what the Ministry of Energy has been working on.

There are always tradeoffs, even in limited river systems, whether they are through agriculture or recreation or even some form of industrial development, that limit bringing on stream or cause judgement to be exercised as to whether or not those smaller units should be brought in. But to the degree that there is a benign impact on the environment and to the degree Ontario Hydro has not been involved because the developments have been, I guess, too small, then there should be and there is an active program both on behalf of the Ministry of Energy and Ontario Hydro to accelerate the development in this area.

Mrs Haslam: I was interested in a couple of comments, and I have written a couple of them down, such as Mr Jordan saying that he did not want to change the way of life of people. But I had a lot of environmental groups come in and see me last week. I met with at least three environmental groups. One of the things they talked about was the fact that the more electricity you use, the cheaper it is. I found that a very interesting comment, the fact that your rates decrease the more you use from the public utilities people.

You talked about in 1984-88 being chair of the board of directors in Manitoba Hydro. "During that period the utility operated profitably, increased its financial reserves for three consecutive years and maintained its position as the lowest-cost electrical service in Canada." Do you foresee a raise in rates in order to promote the type of conservation that we should be looking at?

Mr Eliesen: I personally do not believe rate increases should be used as a method of limiting consumption. I believe you limit consumption through other methods. I believe that current rates are already quite high in the province of Ontario, in part related to some of the difficulties of the nuclear system. That is why the stress should be provided towards energy-demand conservation. If you can limit, then you do not have to invest more in the system.

The method upon which electricity is priced is on an average-cost basis, which means, in effect, that the low-priced, let us say, hydraulic developments from the past or low-priced other generation sources are mixed in with some of the higher marginal-priced costing of today's plant, of which Darlington would be a prime example.

The methods upon which residential, but more specifically industrial, users have been priced have been on a fixed and variable basis. This is one area that I believe is currently being looked at at Ontario Hydro to ensure that there is not a built-in incentive, as a result of the rate structure, to utilize more.

At the same time the costing procedures, as set out in the Power Corporation Act, clearly reflect that you need to obtain sufficient revenue from your fixed assets. That is the basis upon which the rates have been formalized, not only here in Ontario but also with other utilities. But it is an area that I am aware is being looked at and certainly should be addressed in the near future. The same thing is taking place with other utilities in Canada.

Mrs Haslam: Along that line, one of the other comments was that you sell the use of electricity. Now that we are getting more and more into promoting conservation of energy in various ways, I wondered what role you see Hydro playing in this energy conservation?

Mr Eliesen: I believe Ontario Hydro should be the number one player when it comes to impacting the consumption patterns of electricity by users here in Ontario. I think roughly 7,000 to 8,000 megawatts have been identified on a

technical basis for demand management or energy conservation. That is quite a large amount of potential to be impacted. The largest amount, of course, is in the industrial and institutional area as opposed to the residential, but the manner and method by which individuals live and work in society obviously impacts the industrial and institutional area. That is why the message that has to go out by Ontario Hydro, together with major incentives, is to impact people's consumption patterns of electricity. This is taking place today at Ontario Hydro. I believe it can and should be accelerated.

Mrs Haslam: I will pass, Mr Chair, for now.

Mr Hayes: Mr Eliesen, you have a so-called reputation of flooding areas, like in Manitoba. I guess I would like you to really address that and ask you if the kind of things you did there you would plan on doing in Ontario.

Mr Eliesen: Let me say for the record that as the chair of Manitoba Hydro I was associated with the construction of one generating station, the 1,200 megawatt Limestone generating station. It represented the third of a series of hydro stations on the Nelson River and, as I mentioned in my opening remarks, was developed in an environmentally responsible manner, sensitive to the needs of aboriginal communities.

Unlike earlier hydraulic developments in Manitoba, which did result in substantial flooding, the Limestone project was largely a run-of-the-river development which, due to the high banks of the Nelson River, for anyone who has been in that part of the country, resulted in no major flooding of the landscape and minimal environmental impact.

I am very proud to have been associated with the Limestone project. You had a clean, renewable, non-polluting project which provided tremendous economic and social benefits to aboriginal people, which came in $1 billion under cost and is a renewable energy project. I am very proud of the project and I think some of the descriptions that have been made of the project in the media have been inaccurate.

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Mr Huget: Mr Eliesen, one of the concerns I think a lot of people have about Hydro itself is that there are huge cost overruns in some of its facilities. Could you give me an indication in terms of what can be done about those cost overruns and how you would handle those sorts of problems?

Mr Eliesen: Obviously, when you are dealing with major technologies, and particularly for utilities, which are now becoming more involved in rehabilitation as opposed to developing new, greenfield kinds of sites for generating electricity, it is a new area. There perhaps is not the expertise associated with this new area and it has involved major expenditures.

My own experience in Manitoba Hydro has been to ensure that there is proper accountability and management accountability in the development of these projects. My own experience has been very favourable in this area. It is an area obviously that is of concern at Ontario Hydro, particularly in three or four major areas, and it is an area that I would want to discuss with senior management and with my fellow board members if I am appointed to the position.

Mr Huget: Are there, in your view, other areas where Hydro could make a positive contribution to the economy of Ontario, other than just providing low-cost power?

Mr Eliesen: As I mentioned in reference to Mr Jordan's questions, I believe there is a role for Ontario Hydro in strategic purchasing, which is a continuation of what existed in the past, but in the context of new technologies, dealing with demand management and energy conservation. I think Ontario Hydro, which purchases roughly $1 billion a year, can provide a formidable creative instrument for developing indigenous, Ontario-based employment and related technologies. It is an area that certainly I would want to explore with board members and with management.

The Chair: Time for one more quick question. Who wants it? Mrs Haslam.

Mr Wiseman: I do not want to face the wrath—

Mr Bradley: I am shut out.

Mrs Haslam: I am not that way, Mr Wiseman. I will pass to you, if you really want.

Mr Wiseman: Go right ahead.

Mr Bradley: Karen, you can let me ask them. I have an hour's worth ready.

Mrs Haslam: It is just that I do not want to give the impression that I have this wrath that—

Mr Wiseman: You had better hurry up and ask the question.

The Chair: Sorry, time is up.

Mrs Haslam: No, Mr Chair. You mentioned 60%—that is another note—that the nuclear plants were operating at 60%. I wonder if you thought that Hydro could maintain power supply and still comply with the directions of the current government regarding nuclear power.

Mr Eliesen: I indicated ironically, because of the recession and the kind of demand that currently exists here in Ontario, which is at the same level that existed two and a half years ago, we do have a comfort level for the next three or four years of ensuring that we do as much as possible on energy conservation, on non-utility generation and improving the operational performance of the existing nuclear stations. All those things are areas which I would recommend to my board if I was appointed to this position.

The Chair: Thanks very much, Mr Eliesen. We appreciate your appearance before the committee this morning.

Mr McGuinty: I wanted to make a motion, Mr Chair, if I may at this point and while Mr Eliesen is here. I have several more, I think, very important questions to put to Mr Eliesen. I note that our terms of reference provide that we can spend up to three hours on one party's review of intended appointments. This of course, I am sure the members of this committee will all understand, is not your typical appointment. We are talking about the chairman of Ontario Hydro—again, 27,000 employees involved, assets of $39 billion, annual revenues of $6 billion.

I would like to move that we request that Mr Eliesen return at some time in the very near future for another hour

and a half in order that we might proceed with further questioning, which I think is very important.

The Chair: I do not think this is the appropriate time to deal with this. I want to put that on the record. The procedures that have been set down by this committee and have been functioning since this mandate was applied is that the subcommittee would make the decisions.

I want to point out, as was pointed out earlier, that Mr Eliesen's review was a selection of the official opposition. The representative on the subcommittee for the official opposition has the opportunity, if he or she so desires, to take up to a maximum of three hours, with Mr Eliesen, for example. So if your appointee on a subcommittee when the decision was made to review Mr Eliesen's appointment wished to take up that additional time, that choice was his at that point in time. He asked for one hour. I think it would be totally inappropriate, once we go through this review process, to at this juncture say we are going to delay the deliberations on Mr Eliesen's appointment to ask for additional time. I think it is—

Mrs Sullivan: That is a reasonable thing to do.

The Chair: I think it is quite out of order and it is quite in contradiction to the ways in which this committee has been functioning. If we want to deliberate this at some point, we have an agenda here, which I want to stick to, because we have very tight time lines, and if you, Mr McGuinty, want to refer this to your representative on the subcommittee for deliberation or if the committee wants to deal with this at some future point, I would say, let's do so. We have a tough schedule here to comply with today. I would like to move on. If you want to challenge the Chair on this, I am trying to be as co-operative as I can be. But I think that we have a lot of people waiting to appear before us. I do not want to get into this kind of debate. I think it is out of order and I think it is inappropriate at this time, respectfully.

Mr McGuinty: You are not saying that I cannot bring the motion at some later date.

The Chair: No, I am not at all, but I am asking for your co-operation.

Mr Eliesen, thank you. For your information and those other intended appointees in the gallery, we will be reviewing the appointments next week, and the decisions will be conveyed to all of the intended appointees following that meeting. Thank you once again.

Is there a brief comment from Mr Silipo?

Mr Silipo: It is really just a reflection, Mr Chair. While the next person is coming up, I was going to ask if Mr McGuinty would be willing to provide members of the committee with copies of the letter from some members of Ontario Hydro that he quoted from.

The Chair: That request is on the record.

ELMER McVEY

The Chair: Our next review is Elmer McVey. Would you come forward. Welcome to the committee, Mr McVey. Again, Mr McVey you are a selection of the official opposition. Would you like a minute or so to make some comments, or should we get right into questions?

Mr McVey: No, I think they have all the information they require. The only thing I can say is that I am here and you can give a go at me, if you like. Whatever comes out of it, we will accept.

Mr Bradley: My first question is to deal with political affiliation, because we are looking at all these committee appointments and seeing that there seems to be a pattern developing. I see you list yourself as an active member of the New Democratic Party.

Mr McVey: Yes.

Mr Bradley: Do you think that this influenced the government's decision to appoint you to this position?

Mr McVey: It may have. I do not know.

Mr Bradley: Do you believe, sitting on this board, that you should reflect the viewpoint of the New Democratic Party as it relates to energy and environmental issues on the board?

Mr McVey: Mr Bradley, my appointment comes through a recommendation from the Municipal Electric Association. I think the MEA has very strong views on certain items that appear generally before the board and before Ontario Hydro and the government. As such, I would be prepared and will accept the fact that I am an MEA appointment and will do what I can towards fostering the better use of electricity in the province of Ontario as seen by the utilities and by the MEA.

Mr Bradley: When the viewpoints of the MEA are in conflict with the viewpoints of the New Democratic Party, which do you feel should override?

Mr McVey: I would say the views of the MEA.

Mr Bradley: Let me clarify this, because I recognize what you are saying when you say you are recommended by the MEA. It is a bit of a different position. Do you consider yourself to be a delegate or a representative of the MEA, or neither?

1030

Mr McVey: I would say neither really. The recommendation comes through the MEA. They were asked for a number of names. My name was put forward. It was a surprise, to a degree, but not greatly. I have been a member of the party for a considerable number of years and knew that might have some influence on the people who are making that appointment, but I believe they felt my qualifications as a member of Sudbury Hydro and my background in community affairs within the Sudbury area were sufficient to suggest that I could do the job for Ontario Hydro—hopefully, for Ontario Hydro and the MEA, and the people in the utilities and the people of Ontario.

Mr Bradley: There have been some suggestions from some people nearby, particularly in the Elliot Lake-Blind River area, that the area should be considered for a nuclear generating station. Do you have a view on that?

Mr McVey: I have heard that, and I know there are a number of people in the Elliot Lake area who have suggested that would be a great area for it. My view is that before any of that work is done on a new nuclear power plant, there has to be an awful lot more work done on what

I would call the efficiency of nuclear energy before we can do that at all. I have no strong feelings about where a plant would go. I know there are a number of people who are unemployed up there at present or probably will become unemployed within the very near future. Ontario Hydro, as the main procurer, if you like, of fuel from the Elliot Lake area would be responsible to a degree for the outcome of all of the shutdowns as a result of that, and I think it is incumbent upon it and the government and all of us to see that those people are fully employed. Now, whether it would be in that capacity or in some other capacity, I do not know. I would not particularly recommend, if you want to call it that, a nuclear energy plant in northern Ontario.

Mr Bradley: Do you believe that Ontario Hydro should continue to purchase its uranium from Ontario sources?

Mr McVey: I have a bit of a problem with that, because knowing what the cost of it is at the present time, if we are going to have electricity provided by that I think we have to use the cheapest fuel it is possible to get. I do not see how the people of Ontario can continue to subsidize the purchase of uranium from those mines when it is such low grade. There is one mine in the area that is much higher grade than Denison and that will be shutting down within another year and a half or two years, so I do not see how it can be justified to continue to purchase the uranium from Ontario.

Mr Bradley: Is this a viewpoint which you have had for a number of years? Because you have been involved, I know, with the hydro.

Mr McVey: Yes, it is.

Mr Bradley: You have had that for number of years. In terms of nuclear generating stations, do you think there should be no more nuclear generating stations built in Ontario?

Mr McVey: No, I do not feel that strongly about it. No matter what type of generation you have, there are problems with it. You have environmental problems with every one of them; it does not make any difference which one it is. I think we should take the one that is the safest as far as the environment is concerned and the safest to operate. If that means nuclear, that is what it means.

Mr Bradley: How do you think which is the safest should be determined?

Mr McVey: I think you have to be able to provide safe storage for nuclear waste. You have to be able to provide safe transportation for nuclear waste. You have to be able to provide a method in which it can be transported, if you want to call it that, that it would not be taken from Darlington through the city of Toronto and up Highway 17 to wherever it is going to go, or up Highway 400. I am not sure whether the transporting of that waste on water would be acceptable to the environmental people. I am not so sure it would be acceptable to the people in your area and the Welland Canal to have a shipload of nuclear waste going through the Welland Canal. But I do not know how you are going to be able to do all of this. I think an awful lot more studies have to be done on it to find out how you can make a nuclear plant a hell of a lot safer than it is at the present moment.

When I say safe I mean the safe storage of the spent fuels. The present method of doing it has been working very well, but it cannot last for ever because there is not enough room for it.

Mr Bradley: I have heard people advance the cause—and perhaps if I look back on the record I may have even advanced the cause at one time in this Legislature—of small water projects. You are in the advantageous position of seeing the effect of two kinds of environmental impacts. One is sulphur dioxide, which is not through coal plants in your area but through Inco. The second is, you are familiar, living in northern Ontario, with the number of smaller water projects and their impact on areas.

I think you have indicated there is no totally benign way of producing electrical power. What do you see as the problems, if any, with these small hydraulic projects? As I say, you can see them perhaps more in your area than others can in other areas, although even in my own city I see one that is causing some problems.

Mr McVey: Earlier, when the previous person was sitting here, the suggestion was made that there are about 60 or 65 places around Ontario where small plants could be put into small rivers and streams. I think that is a hell of a good way to produce electricity.

Unfortunately, in the wintertime in northern Ontario a lot of those rivers freeze up pretty bad. Some of them freeze completely, as you well know, coming from the area. The runoff in the spring may not be what is required, so you may not be able to generate the power you require. Even some of the plants on the Spanish River, for instance, that have been built by Inco over a period of years, because of water conditions or amounts of water, have been having to be shut down because there is not sufficient water to operate them.

That is about the only problem with it, a lack of water in certain times of the year. I really do not find any problem with small generation. I know it is done in England all the time.

Mr Bradley: Do you think that Ontario Hydro should be in the business of promoting development in areas of the province that do not have development by means of providing electricity at a lower rate than perhaps other areas of the province? I invite you to think of northern Ontario, where so many of the costs are significantly higher of developing or of implementing plants. Do you think that Ontario Hydro should be in the business—I hate to use the word "subsidize," but I will—of subsidizing rates in that area to encourage certain development in that area?

Mr McVey: I do not think Ontario Hydro should be in that type of business at all. But I think that if the government says it should be in that business, then it should be in that business. I think it is up to the government. It is a government policy that must be established as to whether they are going to subsidize industry in northern Ontario to develop in northern Ontario, which means of course that the government itself is going to have to make that decision and

pass on that decision to Ontario Hydro, and the board of Ontario Hydro would have to take it under consideration and work towards whatever it is the government wants.

The Chair: I am sorry, that was your last question, Mr Bradley. I neglected to note this is only a half-hour review, so actually you had a little more time.

Mr Bradley: That is fine.

Mr Jordan: I would like to welcome you here this morning, especially as a delegate or appointee through the Municipal Electrical Association. I would be interested, Mr McVey, in knowing your thoughts on the future of Ontario Hydro relative to the municipalities. I will be more specific. Would you foresee Ontario Hydro looking after generation and transmission of power and your groups looking after the retail and service end of it?

Mr McVey: That is the way it is at the present time, except that Ontario Hydro still has a fairly large rural customer base. I believe that rural customer base should be transferred to a utility, either establish a utility of rural customers or have as many rural customers as possible transfer to the utilities in place.

1040

Mr Jordan: Do you see an amalgamation of smaller utilities? We have utilities with as few as 500 customers still functioning and, to some degree, contracting their work to Ontario Hydro. Do you see a regionalization or an amalgamation of those utilities into something of a minimum size so that they could in fact handle the retail—

Mr McVey: Yes, I do. I should say to you, though, that there are times when there is a cost of size. If you get a small utility with only 500 customers, it may be able to serve those 500 customers exceedingly well. If you add another 10,000 customers or another 1,000 customers to it, it may not be able to serve those additional people as it is able to serve those 500 people. A lot of it depends on how they do it and whether it would make a viable utility or not. I know that lately, in the last six or seven months, smaller utilities have been amalgamated with other utilities to make larger utilities. I do not think size is always advantageous.

Mr Jordan: No. I think we understand, though, that there is a certain amount of equipment required, say, for a community of 5,000 people—in trucks, in trained staff, in computers, in administration staff—in order to make that utility function. What I am wondering is where you have a series of communities of 5,000 to 8,000 within a 50-mile radius, do you see your organization, through your experience with MEA, looking towards consolidating under one commission and under one administration and equipment centre that would service all those areas? Do you see that in the future?

Mr McVey: Yes, I do. I see that coming in the future, because it appears that the cost of equipment for a utility of 500 customers and a utility with 10,000 customers, or even more, is exactly the same. You cannot buy a line truck now—

Mr Jordan: For $100,000.

Mr McVey: Well, $100,000 is a pretty small line truck.

Mr Jordan: Without equipment.

Mr McVey: It costs a real arm and a leg in order to be able to operate a utility to any extent. There should be a way of pooling resources, if you want to call it that, for a number of utilities, either by amalgamation or by an agreement between them all to have one singular setup for line persons and the other people who are necessary.

Mr Jordan: Is there presently a force, if you will, in that direction within your organization?

Mr McVey: I am not so sure there is. I know there has been one amalgamation in the Simcoe area where a number of smaller utilities got together and a couple of townships got together and have established a utility. I believe they are going to have an election this fall to name it. That will bring in a pool of equipment so they can operate from one single area. I think it may be something that is going to be coming in the future.

Mr Jordan: I understand Ontario Hydro's original mandate was the generation and transmission of power. Then when it was wholesaled to a utility, the utility took over and set its policies under Ontario Hydro's approval to retail that to the people at cost, if you will, from the thing. In the last number of years, Ontario Hydro has tended to infiltrate into the utilities with almost overruling policies relative to conservation, in some instances, where the mechanism for conservation in that utility was placed before it but that utility in fact did not see fit in its community to implement those conservation policies or whatever marketing policies they might have been. So I am wondering, are you positive about Ontario Hydro returning to generation and transmission and the people in their communities or utilities deciding on how they are going to use the product?

Mr McVey: We have a family, if you want, of electrical users across the province, regardless of where you happen to be. We also have a family of utilities, one of which is Ontario Hydro. I do not think any utility by itself, including Ontario Hydro, can do the job of conservation that is required. I think everybody has to work together on it. There is not any utility, including our utility in Sudbury, that has the money to do what is required to convince people to conserve electricity, and it is a big job to convince them. We can go to alternate fuels and all kinds of other things, but you are not going to convince them to save electricity under the present system we are using.

Mr Jordan: So you feel that part should be on a provincial—

Mr McVey: Well, I think we all have to work together to do it. It cannot be done in isolation. Ontario Hydro cannot do it in isolation. There is no utility in the province that can do it in isolation. We all have to do it together, we have to work together. And not only the utilities, but the government has to work with it too, the Ministry of Energy, and Ontario Hydro all have to work together in order to make sure the conservation objectives of the government and of Ontario Hydro are met. It cannot be done in isolation at all.

Mr Jordan: But it can be done through the MEA or some body that has—

Mr McVey: Somebody has to have some authority over it; not necessarily authority, but some reporting mechanism so you can see where you are going and where you have been.

Mr Jordan: Are you familiar with the 25-year demand-supply of Ontario Hydro?

Mr McVey: Very lightly, I guess you would call it. I really have not paid a great deal of attention to it.

Mr Jordan: You would be aware that the 25-year demand-supply was put together with a lot of expertise and with a lot of environmental input?

Mr McVey: Yes.

Mr Jordan: And with a lot of expense?

Mr McVey: Yes.

Mr Jordan: And you also realize that at present the hearings are going on, and we have groups of people with no expertise, if I may say so, but a philosophy, who are being given finances to make presentations there—which is part of our democratic society, which I am not questioning. On the other hand, should those environmental hearings come out positive to the 25-year demand-supply plan as presented by Ontario Hydro—there are different options within the plan, if one of those options is accepted—would you feel your group, the MEA, the Ministry of Energy should get behind it, then, and let's get on with the job?

Mr McVey: I am not sure what you mean by positive. There is a positive and a negative, but to each one of us the negative is different than it is. If it came out in favour of the 25-year plan as it is presently written, which means there is another nuclear plant in the offing some time, and the environmental assessment review came out and said that is what we should do, I suppose that is what we should do. I suppose under those circumstances the MEA and the utilities and Ontario Hydro would say, "Fine, let's go." If it comes out opposite to that, I think there would be a long discussion.

Mr Jordan: So you feel the money spent by Ontario Hydro, with its expertise and with the input from environmentalists and so on, has been money well spent in putting forward a 25-year plan to give industry in Ontario some confidence in the future supply of electricity to the province, to the extent that they can now start planning for a plant expansion that is going to take 10 years to—

Mr McVey: If the large users of power in Ontario, the large manufacturers, require power to operate a plant, they will get that power. Whether they get it from nuclear or whether they get it from some other source, they will certainly get it, because I do not believe Ontario Hydro has a mandate to say to somebody, "No, you can't have it."

Mr Jordan: How do you feel—

The Chair: This is the last question.

1050

Mr Jordan: How do you account for the unrest and the discontent among the Association of Major Power Consumers in Ontario today relative to the present policy, or lack of policy, if you will? "It's nuclear if we have to and not necessarily nuclear," is about the way we are approaching it, and yet when you sit down in a boardroom you cannot make a decision for a company on that basis unless we know, as you just said, that the power will be there.

Mr McVey: I am really not sure. There is a problem across the province, and a lot of us seem to take exception to the fact that environmental groups will say you should not flood any land. We also take exception to the fact that we should not build another coal-powered plant. We take exception to the fact that we should not have another nuclear plant. We take exception to every possible way because there is no non-polluting way of producing electricity.

I think the environmental people coming before the board have every right to be there and every right to accept the fact that their suggestions and their comments will be taken into consideration when the final decision is made.

Mr Jordan: Including Ontario Hydro.

Mr McVey: Including Ontario Hydro. And I think under those circumstances that the environmentalists and the other people who are involved in it, the native groups and everything else, should not accept anything less than a really good environmental assessment before anything is done on their lands or anything that is done in the province before any new plants are built.

The Chair: Thank you. We have to move along here.

Mr Waters: I will pick up on, I guess, what you have been talking about, and that is you have been talking about the need for types of power and how we create power.

I look across the province and I look at the area that I represent as being probably just normal. We have a large number of small to medium-sized hydroelectric plants across the province that date back to the beginning of hydroelectric power that have never been updated; they are running exactly the same generators and everything is the same.

I was wondering, in your opinion would it be cost-efficient to replace these generators with more modern generators, up-to-date generators? Would we not produce more power and would it be cost-efficient to do such a thing? That is another alternative to me. It is something that we do not seem to look at very often.

Mr McVey: No, you are quite correct, it is not looked at too frequently, particularly by the public who is involved in it. As long as the power is still on everybody seems to be happy.

Mrs Haslam: Especially Mr Jordan; he likes the air conditioning.

Mr McVey: Exactly; we all like it. The thing is that there is a considerable number of technologies that are available now whereby you can put a generator into a plant that will produce twice the power with the same amount of water that it would have done 25 or 30 years ago. A lot of the plants are 50 and 60 years old. Some of them have been upgraded over a period of time, but to the technology that was available about 25 years ago. With the newer

technology they can produce much, much more power without having to flood additional lands, just changing the generators and the technology that is within those plants to do it. It is quite possible to do it and my feeling is that it should be done. We have six or seven plants in our area, in the Sudbury area, that I believe should be done.

Mr Waters: Just to give you an idea, I actually represent Muskoka-Georgian Bay, so we have that whole watershed. The flooding, if there is to be any flooding, has already been done.

Mr McVey: It is already done, yes.

Mr Waters: What I do not understand about it, and that is why I asked the question, is whether there would be a savings then in the long run, I guess, to the public because you would have more power. It would pay for itself and also create savings.

Mr McVey: That is right. It can be done, there is no reason why it cannot be done, except money.

Mr Waters: In the one case in Muskoka, they just decommissioned it and I do not understand that. That is stupid to me, when you decommission. That is why I asked the question. I would like to know basically where you stood on that topic.

Mr McVey: I do not know why it was decommissioned. I understood there was one decommissioned just lately, but it could very well be that the equipment in the plant is in such bad shape that it is a danger to operate it. So the thing to do would be to shut it down and then rebuild it. I do not know the plant you are talking about, but that would be my assessment of it, without knowing too much about it.

Mr Wiseman: I am back on my theme again. I see two philosophies about the production of electricity, "big is beautiful" versus the small local. I do not know if you can answer these questions, or whether I am even being fair in asking them.

Do you have any idea how much electrical power is lost over the distance of transmission on the transmission line?

Mr McVey: I do not know, but I understand it is considerable.

Mr Wiseman: Would you be in favour of doing some kind of study to ascertain how much power is lost, and then to put that into a perspective of generating and, as we have already mentioned, rebuilding local plants to see if there is a cost efficiency there?

Mr McVey: I believe that study has already been carried out. I believe Ontario Hydro has the figures of what the line losses are on transmission. I have not seen it, but I am sure there is a study. Their study has been done and they really know, because I know each utility is charged for line loss.

Mr Wiseman: As a member of the board of directors, given some of the questions that have been put forward this morning to you, would you be carrying any pet projects of your own to the board of directors you would like to see them investigate and move on?

Mr McVey: I do, but I think that is kind of an unfair question because I am not on the board yet.

Mr Wiseman: I am getting back to the Eastern Power generation. You were in the room when I asked Mr Eliesen about Eastern Power and the methane gas generation of electricity, burning methane gas in a station in Pickering to generate electricity. In conjunction with that, as the closer you generate electricity to where it is being used the less loss there is going to be, I see this as an area that should really be looked at in terms of expansion. Would you be interested in looking at it and doing that kind of research?

Mr McVey: An awful lot of research has already been done on it, and the report I read by the company that has done it was that it had spent some time researching the project to see whether it could be large enough to make it efficient, and it seems to have agreed it would be. I suppose the same company, as you have stated earlier, is thinking of going into other areas, and it would be much more advantageous to everybody concerned if it were able to do that in other areas as well, to burn off the methane from the garbage dumps or whatever, in order to produce electricity. I am not sure what size of plant would be required, or whether you would have to have something else with it to make it a cogeneration plant. I do not know. I have never looked at that. I suppose they have.

Mr Wiseman: I read, and I am not sure if this is accurate, that Ontario Hydro at some point in the near future will have to be decommissioning a nuclear power station, perhaps part of the Bruce or even—I think Chalk River is AECL, but one of these plants will have to be decommissioned. Have you any idea what the cost might be of decommissioning one of these power plants and what impact that would have on rates in Ontario?

Mr McVey: I have no idea.

1100

Mr Wiseman: Again, one of questions that was raised earlier is about the storage of spent nuclear fuel rods and waste material from reconstruction of these plants. Currently it is being stored onsite in Pickering, which I am very familiar with since I live less than a mile away from it. I am just wondering, have you any notions or any knowledge about that kind of storage and any preconceived notions about whether it is good or bad?

Mr McVey: I have followed to some degree the discussions by the federal government and its agency regarding the safe storage of spent fuel, in conjunction with the steelworkers in Sudbury, Homer Seguin in Sudbury, who is on that commission. I have talked to him on a number of occasions. They seem to feel that at the present moment there is a safe method of doing it and the safest method of doing it is by burying it or storing it underground in the manner in which the federal government and the agency have stated.

As I mentioned to Mr Bradley a while ago, the problem that arises from the whole thing, even if the project itself becomes environmentally safe, is getting the spent fuel to the site, wherever the site is. To find the site is no great problem; it is to get the fuel to it without travelling it through the city of Toronto or the Welland Canal or however you are

going to get it to a site that is going to be the biggest problem with it. Is it better to leave it where it is at the present moment because it is safe, as safe as it would be in transportation? The argument comes, how do you get it to where you want it to go?

Mr Wiseman: Are you aware that they are currently transporting tritium from Pickering to Darlington?

Mr McVey: Yes.

Mr Wiseman: They are using the 401. It goes through Ajax, Whitby, Oshawa, Newcastle.

Mr McVey: Yes.

Mr Wiseman: They are already transporting nuclear product.

Mr McVey: But they certainly are not fuel rods.

Mr Wiseman: No, they are not, it is tritium. It is water.

The Chair: Last question, Mr Wiseman.

Mr Wiseman: Thanks a lot; you just blew my concentration. I will leave it at that.

The Chair: Thanks very much. That concludes the questioning, Mr McVey. We appreciate your appearing before the committee and we wish you well. We will convey the committee's decision to you next week.

Mr McVey: Thank you very much.

Mr McGuinty: Pursuant to Mr Silipo's request, I think it only fair that I file the letter that I referred to, just so the committee will know what I am talking about. It is a letter dated 14 May 1991 to the Premier, signed by the eight existing directors of Ontario Hydro. In addition to that, I think it would be useful for me to file a letter dated 16 May 1991 from the chair, Robert Franklin, of Ontario Hydro—I am sorry, from the Premier to the chair.

The Chair: Thank you. They will be received and circulated by the clerk to all members.

JERRY WOODS

The Chair: Next is Jerry Woods, an intended appointee as a member of the Ontario Human Rights Commission. Mr Woods, welcome to the committee. Any brief comments you would like to make before we get into questions?

Mr Woods: No, not at this time, thank you.

The Chair: All right, fine. Mr Jordan, are you prepared to lead off on questions? I know this is catching you unaware.

Mr Curling: Mr Chair?

The Chair: No, Mr Jordan gets first opportunity. If you like, we will vary the cycle and give you an opportunity.

Mr Jordan: I would appreciate that, Mr Chairman.

The Chair: All right, fine. Mr Curling?

Mr Curling: Thank you for coming before us and giving us this opportunity. It is unfortunate, though, Mr Woods, that we have just spent about 55 minutes talking to Ontario Hydro, which is one of our resources in this wonderful province, but the other resource we do have, which is much more important, is people, and we have about five minutes in which to ask you questions. This is a priority, I presume, that the government has given in this light of importance.

Mr Silipo: On a point of order: Perhaps, Mr Chair, you would want to clarify one more time how the time limits were set.

Mr Curling: Is it my time you are talking on?

Mr Silipo: Because they were not set by the government. They were set by the third party in this matter.

The Chair: This is one of the unfortunate things about having new members coming into this committee on a rotating basis, but the times are selected by the various parties and they have up to a maximum of three hours. The time was selected by the third party.

Mr Curling: Regardless of even that, I think it is completely inadequate in a sense.

Anyhow, Mr Woods, I want to thank you for coming forward and giving us this opportunity to ask you a couple of questions. I notice you have extensive union activity as part of your qualifications. I am sure you have learned a lot about people in that process. Do you feel this was one of the factors that brought you to be appointed or to be selected on this commission?

Mr Woods: My union activity or union involvement?

Mr Curling: Your union involvement.

Mr Woods: I am sure that had something to do with the process because that is where I have been most active throughout my working life, with unions and, as you say, with people.

Mr Curling: The commission itself has been going through some extensive criticism and review over a couple of years. Some people feel their credibility has been damaged. The commissioner herself has been trying over a couple of years, and ministers in the past have tried, to bring this credibility to a standard that it could be properly represented and deal with the issues afoot. We feel that many of the problems it has been riddled with need a lot of specific action. What action do you feel you would take to restore that kind of credibility that has been lost to what I feel is one of the most important institutions that we have?

Mr Woods: The most glaring thing to me, Mr Curling, is the incredible backlog. I think if I am going to bring anything to the process, should I be selected, it would be to work towards clearing up that backlog.

Mr Curling: There is much more than the backlog situation here. Are you aware of the report that was done by Frances Henry in regard to the Toronto west office?

Mr Woods: No, I am not.

Mr Curling: Are you aware—I ask you this not in any way to put you on the spot but just to maybe assist you and to alert you; I presume you are being appointed now because the minister stated that is a completed action—of some of the situations that arose about racism and discrimination within the commission? I raise that because you will be the commissioner who will quite possibly be looking at a review of the entire Ontario Human Rights Commission. If you are not aware of that and realize that the

report itself states emphatically that it is not only that area that is riddled with discrimination and low morale but it is across the entire commission—could you tell me if you are aware of that? If you are not, would you support that a review be done of the entire commission in this regard?

Mr Woods: I am only aware of what I have read in the newspapers and I have read some things to that effect. If those things are true, as you say, I would support whatever action had to be taken to clear that up, of course.

The Chair: I am sorry, Mr Curling. As you said, there is a very brief time on these questions. Perhaps one of the other parties may allocate you some additional time.

Mr Jordan, I am going to ask one question on your time, unless you object.

Mr Jordan: Oh, yes.

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The Chair: Mr Woods, I would certainly like to have your views of an issue that I find of interest—and I know it is going to be a controversial one. I know there was one complaint lodged with the commission and there may be others that I am unaware of. There has certainly been one that has got a lot of press attention, and certainly the current government has undertaken some initiatives in respect to government employees, and that is the question of extending benefits to same-sex couples. I know there is at least one very prominent complaint that has been lodged with the Ontario Human Rights Commission in respect to this matter. I am just wondering if you have a view on that issue, and if so, would you bring it to the committee this morning?

Mr Woods: I really do not have a view on that particular issue. I have not given it a great deal of thought. I have read about it in the papers. Sexual preference and that is really of no concern to me per se. So I have not given that particular issue any thought.

The Chair: It is a question that, with Mr Jordan's permission, I would like to pose to all of the candidates. Mr Jordan, do you have any further questions on your time? You only have two or three minutes.

Mr Jordan: Mr Woods, what do you see as the main contribution of the human rights commission to date?

Mr Woods: It is a vehicle for ensuring social justice for all people. I guess that is its main contribution. I think that is the fundamental contribution it has to make.

Mr Jordan: What do you see as the areas of conflict in the operation of a company or an organization or whatever that have led to these abuses that your commission would have to deal with? Is it a matter of ignorance of the present-day law or is it a social problem with society?

Mr Woods: I think it is much broader than that. I think there are a number of reasons, ignorance being one of them, hundreds of years of social and economic interplay between different ethnic groups, politics of all sorts.

Mr Jordan: As someone who has been affected in such a way that I, through my employer or through someone, would have to approach the human rights commission, do you see an area of abuse on my part, say as someone who is taking my complaint to the human rights commission? Do you think that in some cases the rights to be heard have been abused, if you will?

Mr Woods: I think in every institution there is a percentage of abuse, but I would think it was very small.

Mr Jordan: Do you see a certain fear in the workplace today of an employer or employee unknowingly, and not in any positive way having contributed to, but having found himself or herself in a position where they are in fact in conflict with the Ontario Human Rights Commission?

Mr Woods: Not so much a fear; I think a new awareness of course and a concern. I think, Mr Jordan, we all know the difference between right and wrong. If people are doing the wrong things, they may be fearful.

Mr Silipo: Just to start, Mr Chair, one of the things that I gather this committee, in its earlier incarnation back in 1989-90 when it reviewed the Ontario Human Rights Commission, suggested or recommended in order to deal with the backlog of cases and the resolution of complaints was that precise time limits be set on the proceedings and the various stages, which would impose therefore some time lines by which decisions would have to be made. What is your reaction to something like that?

Mr Woods: I think that is an alternative. I think if people are denied an answer to a problem for a long period of time, years, there has to be another vehicle, and if after a certain period of time it goes automatically to the next stage, I would support that.

Mr Silipo: Are there other ways that you believe the commission could address the better management of its caseload?

Mr Woods: Not that I am aware of now.

Mr Silipo: If there were one or two things you could identify as being particular contributions you would be able to make or skill that you would be able to bring to the commission, what would you say that would be?

Mr Woods: Well, just the experience I have had, just my life experience, I think. I was born on a reservation and grew up in both cultures. I am well aware of discrimination and racism, and I think I dealt with it quite effectively.

Mr Wiseman: Mr Chairman, I would like to make a point at this time that I am not terribly pleased with the feeble retraction Mr Curling made of his accusation that this government party had allocated merely 15 minutes to hear this very important review. I would like to point out that if one were to take this to its logical extreme and to point to the opposite side, one would see that while there were four Liberals here for the entire morning, none of them the regular members of this committee, there is only one now, so I think one should be very careful about accusations.

Mr Curling: Is that part of the five minutes?

The Chair: Mr Curling made a mistake. For your information, Mr Wiseman, it is considered inappropriate in this place to mention the attendance or lack of attendance of members, so I think this is something you should be cognizant of.

Mr Wiseman: With due respect, Mr Chairman, I think that would not have come had the earlier comment

been retracted in the gentlemanly manner which this House has normally seen in the past.

Mr Curling: I just said that five minutes is inadequate. I do not care who made the rules, whether it is my party, the Tories or your government. Five minutes is an inadequate time with which to deal with a very important issue.

The Chair: I agree. We just used up the final two minutes, Mr Woods, on that little exchange. Thank you very much for appearing before us. We appreciate it and wish you well.

Mr Woods: Thank you.

ST CLAIR WHARTON

The Chair: The next intended appointment for review is St Clair Wharton. Welcome to the committee, Mr Wharton.

Mr Wharton: Thank you.

The Chair: Is there anything you would like to say before we start the questioning? It is a very brief time we have.

Mr Wharton: Maybe just a little bit I will say about myself.

The Chair: For about one minute.

Mr Wharton: For those who maybe have not given enough time to read my job description, I quite frankly have been a human rights advocate for quite a lengthy time within the city of Toronto. There are a number of cases I have dealt with quite closely, and as a result of some of those cases and the things we dealt with back in those days, I think that from way back then I had that interest in pursuing human rights issues.

The Chair: Thank you. We will begin the questioning with Mr Jordan.

Mr Jordan: Thank you, Mr Chair. Did you wish to share the time with me on this?

The Chair: No. I think I will reserve that question for one other candidate who is going to appear before us.

Mr Jordan: You mentioned that your experience had provided you with some of the incentive to become active on the Ontario—

Mr Wharton: That is right.

Mr Jordan: Would you like to relate some of those for the benefit of the committee, not by name but just by instance?

Mr Wharton: Well, maybe I can. There is a case I was assigned to by the Ontario Federation of Labour some eight or so years ago, as a liaison person reporting to the trade union movement. It dealt with what I considered a brother of East Indian extraction who was fired from his job at a plant here in the city. Consequently, he filed grievances and he also filed a complaint with the commission, and it has taken quite a number of years for resolution of either of these cases.

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Mr Jordan: So you have a real concern about the length of time the commission has been taking to deal with issues.

Mr Wharton: Definitely.

Mr Jordan: On investigation of that, have you found there is a fair assessment being done by the commission and that there is a reasonable explanation for delay, or do you find that there are other—

Mr Wharton: I think that is a pretty tough question for me to answer because I am not a commissioner and I do not know of the internal dealings of the commission. I can only view it as a person outside the commission, and the view is that it has taken too long to reach resolution. The specific reasons given—I do not know if they are correct or not.

Mr Jordan: Do you have some ideas of being fair and yet speeding up the process?

Mr Wharton: I would think that, like the candidate before me who answered the same question or a similar question, in terms of speedy resolution, coming from a trade union background, when you reach a certain point in a process you can automatically go on to the next stage of the process if resolution is not forthcoming. That is a mechanism that should be built in, or could be built in the process as well.

Mr Jordan: I see. So it could be not so much the commission as a group, it could be that the processes need to be analysed and perhaps amended, reviewed or whatever.

Mr Wharton: Exactly.

Mr Waters: I guess I should state that as this particular person is a friend of mine, I am not going to be mean, but I would like to ask one thing. Do you believe the commission does enough in a proactive way or in an education way throughout the province, or do you feel that the commission basically just hears complaints? In other words, do you think it should change or expand its focus?

Mr Wharton: I think it could change and expand its focus as you mentioned and maybe become a little more proactive. I know there are things being done. There are educationals, there is publicity about the work of the commission. However, I do not know if that addresses the question. I think what we have to do in this society is to change people's attitudes so that we might one day render the commission useless.

Mr Waters: I was wondering if you felt that the commission should maybe become more active in the workplace. In other words, from what I have seen and some experience that I have had, I do not see where the commission comes in until—there seems to be very limited knowledge about how the commission works or how to access or what it does in the workplace. I was wondering if it should go into the workplace where most of this seems to start, and into the schools. What is your opinion?

Mr Wharton: Quite frankly, I do not see that as the solution to the problem because even though it is true that a lot of conflicts start within the workforce or the workplace, there are also lots of incidents that are also in society at large. Therefore, you have got to address the whole sphere of society as opposed to one particular segment of it.

Mr Silipo: Following along the lines of the first question asked by Mr Waters, one of the things I was surprised to find out in reading the background materials that we have been provided with was the large number or the large percentage of complaints that are based upon issues of handicap. It was something I was surprised at. Maybe I am the only one, but I wonder if you have a comment on that. Is that something that you believe is general knowledge, or is there something we should be doing about that?

Mr Wharton: I do not get your question, sir.

Mr Silipo: I guess the first question I should ask you is whether in fact that is also something that comes as a surprise to you. When I see statistics that indicate that over 40% of the complaints received for the last three years at the commission deal with issues of handicap, is that something that comes as a surprise to you?

Mr Wharton: No, quite frankly, because I was aware of that. However, I think that in the past maybe there was a willingness to bring that kind of situation to the fore and address it quite frankly, as opposed to maybe other areas that we see there are quite lengthy backlogs.

Mr Curling: Mr Wharton, I want to congratulate you for being selected for the commission, and reading your résumé I see too you do bring a lot of experience there, as you said, especially the fact that, as you mentioned earlier on, you were involved with the John Persaud support committee. I have been approached by many people who have shown some concern about that case, and they have expressed disappointment with the new government. Despite statements that were made in the past, they are now not doing anything in this regard. I know the question was put to you. I want to put it to you again, since you were involved in it. Are you satisfied with the outcome of that case?

Mr Wharton: Quite frankly, I am not satisfied with the outcome of the case. However, I do not propose to know the terms under which it was settled. I knew that there was resolution some time closer to the end of last year. I have not seen anything in print as to what exactly was the settlement. All I know is that the case was not ruled in John's favour.

Mr Curling: When we are outside of cases like these, like the way you were active in that case, sometimes we feel there are mysteries within the establishment. Now you are going to be a part of that establishment.

Mr Wharton: I hope I will be.

Mr Curling: Do you have any comment to say, "What is it I would do now to make it more open, to make cases move a bit faster," or some of the disappointments that you have had in that case? What do you feel you would do, or could do, when you would be appointed to the commission?

Mr Wharton: One of the things I can bring to the commission would be my personal experiences as one of colour. Like the old saying, the old cliché, he that wears the shoe feels the pinch. I think that from that standpoint alone I can bring some experiences that maybe can assist others, my peers, I would imagine, at the board to see things maybe much differently than they normally would have seen it without my presence.

Mr Curling: Do you feel that the process is a bit secretive, that it is not involving the public, the commission itself? I know you have met with the commissioner before you came here, or maybe I should ask you that. Did you meet with Commissioner Frazee before coming to the board here?

Mr Wharton: Yes, I met her once.

Mr Curling: Do you feel that sort of closed-door approach needs to be open? Do you feel that is an appropriate way?

Mr Wharton: I would imagine it must have been appropriate, because I would imagine it has been done before.

Mr Curling: So you did not question whether or not that is an appropriate way to follow through?

Mr Wharton: No, I did not.

Mr Curling: With the vast experience that you have, did you feel that the process wherein this system is now set up to be reviewed by all honourable gentlemen and women, when the minister stated that five commissioners have been appointed, meaning it is over with, that you are not coming here for a review really, you are coming here just to be presented and go through that motion?

Mr Wharton: I think it is just a question of semantics. I do not know if there is any substance and truth to the fact that—what you are saying is that it is a fait accompli. I do not know if that is the fact.

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Mr Curling: But her statement was that, and I am saying that in defence of you. You maybe do not need to be defended, but I am saying too that the minister stated that five commissioners have been appointed and we all here, even my colleagues in government, would love for you to come forward so they could make their unqualified, without-any-coercion-at-all assessment of what you are. Then, when we give you our blessing—I am going to give you my blessing now in that commission—you know it did not come by any coercion by my leader or anybody else. I wanted to just say that to you. Do you feel that was an appropriate way for her to state, "We have just appointed five new commissioners to go in who have very extensive backgrounds in human rights and civil liberties?"

Mr Wharton: I think it was appropriate in that she maybe went through a process of selection based on maybe a number of names that were forwarded, and she says, "Well, these are the five that I'd like to appoint." Maybe that is when she said, "I've just appointed five." However, you know just as well as everyone else here does that this process has to take place as well.

Mr Curling: My last question: It is always regarded, especially by the Ontario Federation of Labour—we are quite familiar with it—that if there is any organization that has been studied, it is this one. It has been studied and restudied. Do you feel any more studies are needed in order to improve the commission?

Mr Wharton: Quite frankly, I do not think so. I do not believe in reinventing the wheel. I think that what we have to do is put our heads together. I think we all know what the problems are in society. Just clean up society a little bit; that is all.

Mr Curling: Thank you.

The Chair: Thank you very much, Mr Wharton. We appreciate your appearing before the committee today.

Mr Wharton: Thank you, too.

Mr Silipo: While the next person is coming up, if I could just make a point with respect to the issue that Mr Curling was raising: I think that certainly we would all agree that we all sit here without coercion. I think there is a danger sometimes in trying to read from newspaper clippings and attribute statements to ministers.

Mr Curling: Not a newspaper clipping; Hansard.

Mr Silipo: If it is Hansard, I would have to take a look at that because I did not see that. I believe the minister certainly would be the first to acknowledge that her nominations would be subject to the review of this committee.

Mr Curling: At the same time, I resent the fact that he is assuming that I am getting my information from—I come here as informed as you are, Mr Silipo.

Mr Silipo: I certainly agree with that, Mr Curling.

FRAN REID ENDICOTT

The Chair: Okay. Moving right along, the next intended appointee for review, Fran Reid Endicott, also an intended appointee to the Ontario Human Rights Commission. Ms Endicott, welcome to the committee.

Ms Endicott: Thank you.

The Chair: We appreciate your appearance here today. Any brief comments before we begin the questioning? There is a very brief time allocated.

Ms Endicott: Given the brief time and given the sort of cross-talk that has happened, I think I would rather wait for questions.

The Chair: Okay, wise decision. Mr Jordan?

Mr Jordan: Welcome to the committee. I was wondering what objectives of your own you look forward to developing a plan to remove the hangups and the slowness, if you will, of the present system under the present board? Do you have some real suggestions for the board that you hope will still cover the subjects well and the people will be looked after, but yet the whole process would be speeded up?

Ms Endicott: I think one of the things I am looking forward to is working with a group of people who are committed, as I am, to the whole issue of human rights, and in doing so working within a context in which we understand that we are looking not just at issues, say, connected with a backlog, but we are looking to restructuring the commission, looking at the systemic barriers within the commission itself that provoke a backlog or provoke the kind of newspaper reports that we have been reading recently.

What I hope I can contribute to the commission if I am appointed is my experience in dealing with organizations, and in fact working towards developing systemic solutions towards systemic barriers.

Mr Jordan: Thank you. I notice that in some of your experience in representative projects you have experience in developing a policy on sexual harassment and procedures for dealing with related incidents. Do you have any plan through the commission to assist in education in the workplace so that incidents of this nature are not going to happen just through somebody not being familiar with the code and the ethics of the code relative to that type of discrimination—which can happen, in my experience, very unknowingly—and all of a sudden the person finds themselves facing a harassment charge? Would you like to say anything on that?

Ms Endicott: I am not sure this is going to sound as a direct answer to your question, because I am not sure that at this point I can give a direct answer. I think it would be inappropriate for me at this point to lay out a blueprint for what the commission should be doing when I am not even yet a member of the commission.

What I would like to say, however, is that in dealing with issues around sexual harassment, or racial harassment, for that matter, one of the things that we have to be aware of is that we are not dealing with these issues in a vacuum, but we are dealing with what we see as incidents symptomatic of something that is deeply buried within the society. So I would see that the commission would certainly have a role in educating the general public in being very—I hate the word, but I cannot think of a better one at this point—proactive in areas like the workplace, in itself becoming a model for other workplaces to emulate.

I would see that education aspect as being extremely important. How that is done becomes extremely important as well.

Mr Jordan: Could you tell me, at the present time the person accused, if you will, of racial or sexual whatever it might be, what protection do they have?

Ms Endicott: I believe that they have a fair bit of protection under the law. One of the things that I think—

Mr Jordan: Excuse me, I mean through the commission; is there any protection?

Ms Endicott: For one thing, I think the burden of proof is still there within the commission itself.

Mr Jordan: But at present, are you not now guilty immediately the charge is laid under the commission?

Ms Endicott: I would assume not. I do not believe so. I think that charges are made and an investigation is then made to see if the charges are supportable and therefore should be brought forward.

The Chair: That was your last question, Mr Jordan.

Mr Silipo: Having had the pleasure to work with Fran Endicott for a number of years as a colleague on the Toronto Board of Education, I know a lot about her feelings and her work. I just wanted to put that on the record.

I want to ask really just one question, Fran, and that deals with the whole area of systemic discrimination, which I know you have both some interest in and have done a fair amount of work in. Again, it is an area that in

the past, through various committees, including I guess an earlier report of this committee, there was some suggestion that the human rights commission should have the power to initiate affirmative action programs as a means of dealing with the whole issue of systemic discrimination.

Can you comment about that, as to whether you think that is a direction that should be pursued, or any other thoughts that you might have on how proactive the commission could become or should become in the whole area of systemic discrimination?

Ms Endicott: I think that the commission should be extremely proactive. Again, I would say that how that is done becomes very important. One of the things that is happening at present in this current climate is that there are a number of organizations, a number of commissions, a number of institutions that are involved in dealing with these issues. So one of the things that I personally would hope for is a great deal of co-operation so that we avoid time-wasting turf wars, for instance, and that we in fact come up with policies and implementation practices that use the things that we have at our disposal to our best ability.

As far as the proactiveness of the commission, I think it is extremely important that the commission be seen, be heard, and a face be placed on that commission as being proactive, as being serious, as an institution that intends to be clearly heard on those issues.

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Mrs Haslam: I was interested also to see that you were a trustee on the board and wondered if you found it difficult within the board and within the trustee structure to gain support and set up the—I am thinking of discrimination against women—to set up your employment equity as regards to women, affirmative action program?

Ms Endicott: Well, one of the things that I am sure, in talking to this group of people, you are well aware of is that you develop political skills very quickly. Especially at the Toronto board, you learn them very quickly indeed the first two months.

When I became a trustee, it was at the time when there had been some work done on the ground. In the same way with the commission, there was work that had been done. There had been a climbing. So no, it was not that difficult in fact to find support to undertake a review. What was far more difficult and what continues to be difficult is to implement the recommendations that the review brought forward.

Mrs Haslam: I come from a trustee background and to tell you the truth, it seemed to be the dollars and cents that they objected to in putting in an employment equity and it got to be a real fight to actually try to implement some of the programs or to actually have someone to implement the program. How much did dollars and cents play in your particular area?

Ms Endicott: I think it played a large role, but on the other hand I think if a board or any organization decides that such an action is a priority, then clearly it has to be prepared to put the money behind it.

Again, an institution like a school board or like the Ontario Human Rights Commission does not exist in a vacuum, so the pressures for something to be done, for changes to be made, are there not just internally but externally as well, and that certainly helps to squeeze some of the dollars and cents out.

Mrs Haslam: I actually made a complaint through the Ontario Human Rights Commission, and it was very difficult to prove. I am wondering what the success rate is. Are you aware of what the success rate is and how many are concluded to the benefit of complainants or are the success rates not as good as they should be?

Ms Endicott: I am sorry but I have not got that kind of information at my fingertips. I am sure that is something that could be provided to you and should be provided to the public generally. I am aware of the backlog, of course. I am aware.

Mrs Haslam: I was not talking backlog. I was talking successful completion.

Ms Endicott: I am sorry. I have not got that information at my fingertips.

Mr Curling: Ms Endicott, you come to this review with your credibility and your credentials quite impeccable and you are well known in the community for the work that you have done. I want to commend you for that.

Ms Endicott: Thank you.

Mr Curling: Let me just refer to the backlog itself since it has been raised. I have heard the minister say that within a very short time the elimination of the human rights commission would come about. From your experience with the issue of racial discrimination and sex harassment, do you feel that this is a realistic assessment: that we will see—if we even put a time frame of 15 years on it—there will not be a human rights commission any more because we will have solved all the human rights violations in this wonderful place, Ontario?

Ms Endicott: Mr Curling, I think you and I share an experience which makes us rather dubious about that 15-year time lag. I think what can happen in 15 years, however, is that we can create a climate, we can create expectations, we can create institutions in which something like the human rights commission becomes a part of that society that is integral to the functioning of that society and not something that hangs on the fringes. I think part of what has dogged this commission from its inception is somehow a looking at the commission as something that exists out there and on the fringes and not as part of creating the society we want to see being created.

Mr Curling: Your response triggers me again to comment that someone like you coming before the review should spend an hour with us. The reason for that is that in any job application, one learns of the applicant and wants to know why we should employ that individual and realize that we do get good quality for our money. However, five minutes is given to me and I think it is our loss, not your loss as much.

You are quite familiar, I am sure, with the problems of the low morale in the commission, of the morale of racial discrimination and sexual harassment within the commission itself and the persistence of case backlog, as a matter

of fact, it is said. Do you feel that the appointment of five new commissioners is adequate to respond to all of these problems, or do you feel the commission should be expanded and more should be there in order to deal with all these problems?

Ms Endicott: I think I would like to reserve judgement in terms of the numbers until I am actually on the commission. But let me just say that whether it is five, 10, 12 or 50, it has been my experience in doing this work that the numbers, while important, are secondary to the kinds of plans, to the kinds of analyses that are brought to bear on the problems or the issues. So in terms of numbers, I think I would be in a much better position to answer that if I become appointed to it.

Mr Curling: I see the Chairman is getting uneasy, so my five minutes must be up, but let me ask you this last question then. I will put it in this way. There was one renowned leader—and I will not call his name; he is not one of my favourite persons—but he has said a very wise thing. He said, "Give me the tool and I will do the job." So therefore within this we would like maybe people and where the resources of money—that is very important. If we have money with the commission, it can assist. At the present there seems to be a freeze on the funding of the commission at the level—I am looking at what they got last year to what they got this year. Do you feel that this in any way assists the commission that you will sit on, as soon as you have been appointed, in dealing with the task ahead of you?

Ms Endicott: We have talked about money before. I always believe that the finances are important. We need as much money as we can get, but let me repeat that I think that having the money also depends on wisely spending it and making sure that what we do get we spend as wisely as we possibly can.

The Chair: Thank you very much, Ms Endicott, for your appearance here today. We will be in touch with you next week to advise you of the committee's decision.

Ms Endicott: Thank you.

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CARMEN PAQUETTE

The Chair: Welcome to the committee, Ms Paquette. Would you like to make any brief comments before you get any questions?

Ms Paquette: No, that is fine.

The Chair: Okay. Mr Jordan has kindly given me a couple of minutes of his time. Perhaps you were here earlier. I know that in the bio we were given with respect to you, it was indicated that you were a strong advocate with respect to gay and lesbian rights. I know when the minister was meeting with the Toronto city council race relations committee, one of the clippings we have been provided indicated that she hoped to see some changes with respect to the Human Rights Code dealing with sexual orientation. I just wondered if you have any views, and do you see yourself as an advocate for those kinds of issues, if indeed you do become a member of the commission?

Ms Paquette: Yes. As an active member of the gay and lesbian community, I am particularly interested in looking at harassment, the way harassment is not included in all the 15 grounds of discrimination. I think this particularly affects the lesbian and gay community in that I could not be fired overtly because I am a lesbian, but I could be harassed in my workplace because I am a lesbian. There were a number of other grounds which also do not extend to harassment, and I do think that for the Human Rights Code to be more just for all citizens of Ontario, it should also be extended to—

The Chair: What sorts of things do you see as harassment in the workplace for a lesbian?

Ms Paquette: Some one could call me a dyke all day long, and as long as that person was not my boss and did not fire me by saying that I am a lesbian, that would be my day-to-day reality, and that is not just.

The Chair: If I was working with someone and he or she was calling me a jerk all day long, would you see some sort of differentiation there, simply because it is sexual orientation versus perhaps my IQ?

Ms Paquette: I think we have to look at the whole educational aspect of this. I think a lot of racism and sexism and homophobia passes as humour in the workplace, and I hope that nobody would treat you as a jerk. Whether or not this would be called harassment within the Human Rights Code, it probably would not, unless maybe you were a black person and you were the only one consistently called a jerk and no one else of similar ability and intelligence was.

The Chair: I think it would be a difficult area to define.

Ms Paquette: Yes.

The Chair: As you know, the government recently extended benefits to what are termed same-sex couples, and I know there is a complaint before the commission which has received a fair amount of media attention recently with respect to, I think it is, basically the same sort of issue in the private sector. I am wondering if you have a view on that sort of thing. Do you think those sorts of benefits should be extended generally in those kinds of relationships, if you will; recognized for the extension of benefits?

Ms Paquette: I think in an enlightened society we try to recognize all of the forms, that people form communities and form bonds and love one another, and if one of those ways to recognize that there are different ways of loving is to extend coverage to same-sex partners, I think that is as valid as for people to recognize that they might have responsibility for children who are not their biological children or for grandchildren who are not their biological grandchildren. It is part of a vision of society that says we want to promote and sustain that people love one another, not that they hate one another.

The Chair: Would you extend that to the point where, from the point of view of personal belief, I guess, you think that, for example, the Marriage Act or whatever other provincial legislation would have to be amended or

dramatically altered to legally recognize marriages of same-sex couples?

Ms Paquette: I think there has to be a lot of discussion, within both the gay and lesbian community and the community at large, because there is not any consensus among heterosexuals about what is adequately covered or not covered in the marriage law. There are a lot of common-law couples who may wish or not wish to have their relationship recognized. The same reality holds true for gays and lesbians. Some of us want to have the possibility of having our relationships legally recognized and others are like common-law heterosexual couples. Again, allowing the diversity and not eliminating recognizing any particular form of relationship is part of a view of society that I adhere to.

The Chair: I guess I am not clear. I do not want to give myself any more time than I give other members, but things like the Family Law Act, for example, where a separation or a divorce occurs—and there are requirements under that law in respect to compensation, etc—I am wondering if you feel, as an individual, that those sorts of things should apply equally to couples of the same sex who recognize their relationship as a marriage?

Ms Paquette: To those gay and lesbian couples who seek to have those rights and responsibilities, because it is a two-sided possibility, yes, for those who seek it.

Mr Silipo: I want to go back to a question I raised earlier with one of the other nominees. You may have been in the room and heard or not, I am not sure, but it was the issue of the large percentage, relative to the other grounds, the large number of complaints received by the commission over the last three years, 44% in 1989-90, dealing with questions of handicap. Again, if you have any general reaction about why that may be the case, I would appreciate hearing it.

Ms Paquette: I am an adult educator, and I would be interested to know whether or not the number of complaints from within that community comes because the code is getting better known within that community. For instance, at the moment there are only 2% of cases that come before the commission that are on the basis of sexual orientation. Is it because the code is not known in my community, or is it because the complaint process forces people to have their name go through the system and therefore to come out to say that they are gay or lesbian? There is probably a number of reasons why it is that percentage in the disabled community and much less in my own community. I am interested in finding out.

Mr Curling: I too want to applaud you and congratulate you for being selected—although the minister feels otherwise, that you have been appointed already—to come before us. I would like to ask you one or two questions in the short time I have. What comes to mind is that there are three areas of policy that are always being mentioned: affirmative action, pay equity and employment equity. What constituents do you think those would serve mostly, or should serve?

Ms Paquette: I think all Ontario citizens deserve to have an equitable place both in the workplace and in society. I do not feel that there is any particular minority that would be better served. I know that my own minority is less served by those mechanisms because it requires coming out, the process I have just said. You cannot have a process based on coming forward and saying you are gay or lesbian in order to have any kind of justice. It really is more in creating a workplace where it becomes unacceptable to call anyone by a racist name or to call anybody a faggot. It is the creation of a workplace, a just environment, rather than asking for people to come forward and use legal or quasi-legal mechanisms.

Mr Curling: Would you say then, and you could correct me—I stand to be corrected quite often, even in here—that those three areas, employment equity, pay equity and affirmative action, really more serve the women or group of white women? Would you say that I am wrong, if the statistics—one of the reasons I ask that is that Mr Silipo keeps asking about the statistics and the surprise, talking about sexual harassment, and the statistics are there. We can in society sometimes introduce policy, and somehow, when it is intended for all society to be served by it, a selected group is being served by that.

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Ms Paquette: I would not conclude that white women are being served most by these mechanisms, just as I would not conclude that the Ontario Human Rights Commission is of better service to the disabled community because the disabled community is accessing the commission more. No, I would not agree with the statement that white women are served best.

Mr Curling: A recent report done by Frances Henry on the Toronto west office of the commission stated there is evidence of racial discrimination and low morale. It is fair to state, too, that it is not only in that office alone but widespread within the other offices of the commission. If it is recommended that a single review should be conducted for the entire commission, would you support that review?

Ms Paquette: I am not sure we need another review. I think we need to look at the problems within the commission and probably move to implementing some of the recommendations that have been made in these various review processes. Another wider review may or may not be warranted. My initial reaction is that it is probably not warranted, but I would need to look at it more and get to know it more.

Mr Curling: But they stated it should be done. In other words, they feel the Toronto west office is like that, and an entire review should be done. You are saying no, we should not have it. You do not feel—

Ms Paquette: It is my initial reaction. I am open to being convinced otherwise.

Mr Curling: Do you feel the minister's statement that you have already been appointed jeopardizes you in any way, that feeling you have already been accepted for the job puts us into a peculiar position in asking you certain questions so you can respond to certain questions in a different light? Do you feel that has in any way jeopardized that?

Ms Paquette: From the beginning I have been notified that I am an intended appointee. I do not feel I am a commissioner at this point. I do feel that in this process, I am at this point in a state of limbo about whether I will, in effect, be serving.

Mr Curling: The commission itself did not get an increase of funding in this year's budget to conduct its business. Would you be fighting and advocating for more funds for the commission, considering, as you are quite aware, the issues that are there, like the backlog and other great issues that have to be dealt with, which need money? Your colleague who came forth, Ms Endicott, stated very eloquently that efficiency is the first thing you must look at, but in the meantime I would say to you that it may need more money to put into the programs and address the backlog and other issues. Would you be fighting for more money for the commission?

Ms Paquette: I need more information before I form an opinion about that.

GAËTANE PHARAND

The Acting Chair (Mr Silipo): Ms Pharand, we will give you the opportunity, if you wish, to make some comments at the beginning.

Mme Pharand : Je voudrais demander si c'est possible de m'adresser à vous en français d'abord. Si vous voulez me poser une question en anglais, je peux répondre en anglais, mais je préférerais que vous me le disiez à l'avance.

Le Président suppléant : Vous pouvez certainement répondre en français si vous voulez. Il y a la traduction. If members could make use of the translation devices, it would be useful. Est-ce que vous voulez dire quelque chose en commençant ?

Mme Pharand : Non, j'attendrai les questions.

Le Président suppléant : Puisque le représentant du Parti conservateur n'est pas ici, on va passer au gouvernement. Est-ce qu'il y a des questions ? Are there questions from the government side?

Mr Waters: I would actually like to go down the line our temporary Chair went down. Do you see with the handicapped any reason for the 40%—is it 40%?

The Acting Chair: Forty-four per cent, I believe it is.

Mr Waters: Of the complaints coming in being from handicapped. Do you see any—

Mme Pharand : Je crois qu'il y a énormément de progrès qui ont été faits du côté de l'éducation. La commission a quand même fait certains efforts. Récemment aussi, elle a publié un document traitant de toute la question des personnes handicapées et des recommandations faites à cet égard. Je crois que l'éducation, de pair avec le public qui devient de plus en plus conscient de ses droits à ce moment-là, a peut-être fait que les plaintes ont augmenté auprès de la commission.

Mr Waters: Also along the line I had asked earlier on of one of the previous people, do you feel that the commission should be more proactive, be out there doing more work within the community, before it ends up being complaints brought before the commission; trying to, I do not know, be a better part of everyday life in the community?

Mme Pharand : Je suis d'accord que c'est très important, d'abord pour les membres qui siègent à la commission d'être très actifs dans leur communauté au sein de tous les regroupements possibles. Il est bien évident qu'il est presque impossible pour une seule personne de faire cela. Aussi, il faut absolument commencer à mousser, si vous voulez, et à mettre une image, comme une personne l'a indiqué tantôt. Il faut qu'on sache que la commission existe, ce qu'elle fait et non pas seulement au niveau des étudiants à l'élémentaire et au secondaire. Il faut commencer aussi à éduquer tout le public en général.

À mon avis, de toute façon, il est primordial d'être présent et d'avoir aussi des structures en place qui font, possiblement au niveau collégial ou au niveau universitaire, qu'il y a des cours obligatoires, surtout quand on parle des droits de la personne. Parce que sans l'éducation, on ne réussira pas à faire avancer toute cette question.

Mr Waters: Can you give me any ideas on how you would go about doing this in rural Ontario? I find that Toronto or the big centres seem to have a lot of knowledge about the committee, but when you get into rural Ontario, it is almost as if it does not exist.

Mme Pharand: Je pense qu'au niveau des commissaires eux-mêmes, des personnes qui siègent à la commission, ils ont un rôle à jouer en ce sens, à savoir que, quand on reçoit une invitation, ce ne soit pas nécessairement toujours les membres du personnel — si c'est possible, d'accord — mais aussi que les personnes qui siègent à la commission puissent avoir la chance de se déplacer avec l'appui, naturellement, du personnel pour pouvoir aller se rencontrer.

Naturellement encore, si on veut parler de budgets, ça peut demander un peu plus d'argent dans les régions isolées, tel le nord de l'Ontario. Par contre, la commission ainsi que tous les employés et les membres ont un rôle à jouer, à promulguer, à promouvoir, et également celui d'aller chercher des personnes qui travaillent non seulement pour faire avancer une cause en particulier, mais qui travaillent dans leur communauté de façon générale et qui ont souvent un certain pouvoir auprès de leur communauté distincte, que ce soit la communauté francophone ou d'autres groupes.

Mr Curling: I want to congratulate you on the selection of being a nominee to the commission. Are you familiar with the commission's guidelines for dealing with complaints in cases of racial discrimination and sexual harassment?

Mme Pharand : J'ai eu la chance de feuilleter le rapport annuel 1989-90, certaines des recommandations, des rapports des différentes unités. Par contre, pour vous dire de façon très précise, non.

Mr Curling: Mr Silipo in his role as a member of the committee and not as Chair asked a couple of questions, citing some observations about the 44% of complaints that were received on handicaps. I looked at the race, colour and ethnic origin complaints and there are roughly 17%. I may be in a sort of way answering but asking too. It seems to me there are specific guidelines about discrimination because of handicap and what is included in a handicap.

As you said, it could be education that has caused an awareness that may have caused the amount of complaints that come forward. You further stated that more education may be the other area, at least that is what I understood you to have said. There is a tremendous amount of education and sensitization about discrimination in regard to race and ethnic origin. Do you feel more education is needed or more legislation is needed in order to raise that awareness?

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Mme Pharand : Avant qu'on essaie de promulguer d'autres lois et d'autres arrêtés etc, je crois que oui, c'est important d'éduquer. Mais davantage il faut comprendre les différents groupes. Je prends mon exemple comme personne francophone, femme vivant dans le nord de l'Ontario.

Quand une personne minoritaire reçoit certains services, et je dis bien certains services, elle ne peut pas se permettre de critiquer. C'est très difficile pour une personne dans un milieu minoritaire de critiquer, de vous demander plus, parce qu'on se dit toujours, «On nous a donné un peu, alors profitons-en, n'allons pas branler les choses, n'allons pas créer des difficultés». En tant que minoritaire, on a un certain vécu et une certaine expérience. C'est presque appris qu'il ne faut pas branler les choses, qu'il ne faut pas demander trop parce qu'à ce moment-là on risque de se faire taper sur les doigts.

Je crois que c'est davantage encore toute une question d'éducation. Il faut connaître les communautés à qui on s'adresse, il faut aller vraiment s'informer quels sont leurs besoins particuliers, parce qu'à ce moment-là, une fois qu'on aura connu les différents groupes, que ce soit sur la question de la race, la question du sexe, des groupes multiculturels, ethniques, de la langue etc, ils ont des besoins distincts. C'est bien facile de dire oui, on a une loi, mais cette loi n'adresse pas du tout les besoins. On reste encore avec le problème.

Mr Curling: The morale of the commission from time to time has been rated at all different levels. What is your rating of the morale of the commission now?

Ms Pharand: I really have no idea. I am choosing to answer you in English just to show that I can go back and forth. I think a lot of things have apparently have been done from my reading of reports and so on. But I also feel that it is very important to have an interaction with your employees or with people working in any business and what have you. I feel that if you can satisfy your staff, if you can give them an environment they are happy to work in, where they feel that their concerns, their ideas are being listened to, then those same people will give you in return 100% and 150% and more. Perhaps the question of morale, because of having offices in a lot of different cities and so on, it might be difficult to address all that, to be present also. There are certainly different ways that the morale can be addressed. Perhaps the commission has done so now. I am not really knowledgeable in that respect at the moment.

The Acting Chair: One more question, Mr Curling.

Mr Curling: Thank you, Mr Chairman. May I take it from your response that the morale of the commission has been damaged because of—in other words the morale was and maybe is pretty low in the commission? Would you say, then, that an overall review of the commission is necessary, just basing it on the report that was done by Frances Henry in the Toronto west office and saying that it is not only at the Toronto west office but it is quite possible that it exists overall in the commission? Would you say that a review should be done now so that we know who we are dealing with and that all our people within the commission are happy and understand the problems that they are facing?

Mme Pharand : Je crois qu'à la lumière des difficultés qui existent en ce moment dans un des bureaux ce n'est pas mauvais, mais sûrement il faut avoir un processus où on peut vraiment aller s'informer, savoir exactement quel est le problème dans ce bureau, vérifier si la situation est pareille à d'autres endroits et s'il y a aussi des bureaux où ça va très bien, peut-être à ce moment-là mettre en commun les choses qui se font de façon adéquate où les gens semblent bien fonctionner ensemble pour ensuite essayer de régler les problèmes dans les autres centres.

Après les lectures que j'ai faites, je crois aussi que des jours il y a des choses qui ont été faites à ce niveau, des recommandations, des procédés pour essayer de remédier à la situation, mais pour vous en parler concrètement je n'ai pas plus de détails.

The Acting Chair: Thank you, Mr Curling. We do have a few minutes left. Mr Jordan, any questions?

Mr Jordan: Since I have not been here for the previous questioning, I guess my basic question is that a general overview from this morning was that the human rights commission is seen as being something over there, instead of really something that is part of the workplace. Do you see that management and labour combined have, over the years, developed great on-the-job safety programs? On the human rights thing, perhaps it is time there was more of this type of education relative to the workplace, before some incident takes place that is not a planned incident and it is embarrassing to everybody.

Mme Pharand : Je crois l'avoir indiqué un peu plus tôt en répondant à une des questions. Oui, c'est très important, la Commission des droits de la personne. Autant les employés et le personnel que les membres de la commission elle-même ont un devoir très important d'être présents au niveau des conseils d'administration, des regroupements dans les différentes communautés, que ce soit un syndicat ou autre. Il faut s'assurer qu'avant même que les problèmes existent, bien qu'il en existe plusieurs en ce moment, avant que ça avance trop, qu'on ait la chance d'adresser le problème, d'en discuter et de promulguer certains critères pour tenter d'éviter des situations difficiles plus tard.

Mr Jordan: Actually, at time of employment or time of interview for a position with a company, would you feel that would be an appropriate time to make it known, not just as a condition of employment but with some samples and some examples of what is in fact considered harassment, whether it be racial, sexual or whatever in the workplace? In

in my experience, people have put themselves in awkward positions unknowingly.

Mme Pharand : Je crois qu'il ne faut pas nécessairement le faire à l'entrevue comme tel. Par contre, il faut que l'entrevue soit pendant la période d'entraînement, si vous voulez, ou à un moment donné avant que l'employé soit confirmé dans son poste, absolument. Que ce soit dans l'entremise d'un cours donné par la commission ou par des membres du bureau de la Commission de droits de la personne dans le milieu, ou des jeunes politiques établiés au sein de l'institution, je crois que cela aiderait à éviter des problèmes.

Mr Jordan: Thank you very much.

The Acting Chair: Thank you, Mr Jordan and merci, Madame Pharand. Le comité prendra sa decision la semaine prochaine à notre prochaine réunion.

Just as Mr Runciman indicated earlier, the committee will be dealing with all the nominees that we are interviewing today at our meeting next week in terms of making a decision and recommendation to the Legislature.

We have two further appointees to review. The next two deal with the Ontario Special Education Tribunal.

KENNETH J. WEBER

The Chair: The first is Ken Weber, the intended appointee as Chair of the Ontario Special Education Tribunal (English).

The time allotment for this item is half an hour. I realize the fact that we are late and we are going beyond the normal time is causing some problems both for members of the committee and possibly for the people who are coming before us. We apologize for that, but we will try to do our best.

I could start perhaps, Mr Weber, with a couple of questions, since I was responsible for selecting you to come before the committee.

One of the issues in the whole area of special education and particularly in terms of the role of the tribunals is, it seems to me, how you sort of balance the need, on the one hand, to keep the process as informal as possible so that it does not become cumbersome and threatening to people who are appearing, at the same time that you have the procedures set out in such a way that it offers some reasonable safeguards to people who are coming before the tribunal or through one of the regional tribunals that is established. Can you comment on how that balance should be drawn and what kinds of things a tribunal, in your view, is doing or should be doing to ensure that?

Mr Weber: My experience as a member of tribunals since 1985 is that, as they function, we tend as tribunal members to perhaps go overboard on behalf of the appellants, who are the parents, simply to make them more comfortable and so that they realize that the purpose of the tribunal is the best interests of their child. That needs to be the case because the board, being the respondent, can usually marshal resources, if only in number, at the tribunal hearing.

My experience has been therefore that parents do feel they are being fairly treated during the process. By the same token, there is the reality that the tribunal functions by the Statutory Powers and Procedures Act and as a consequence must follow certain operational principles. That is my response in terms of your question legally.

The legislation does not allow for—that is not a fair way to put it—it is not specific in the legislation that a tribunal or even the appeal board process, which is one level before the tribunal, should attempt a kind of facilitation. I do not like to use the word "mediation," because it implies a confrontation. I like to use the word "facilitation," although all of the tribunals on which I have sat have made some kind of attempt—and in fact two of them are in almost a state of permanent adjournment because we have been able to at that point bring the parents and the board together to achieve a resolution over the disposition of a child.

I think the tribunal process has been very fair in terms of what it has done for parents and boards, and of course ultimately for the child.

The Acting Chair: Are there other questions from the government side? Mr Waters?

Mr Waters: One of the concerns I have is that once again, with the appeals and the tribunal, from what I can understand it is becoming very legalistic, and I have a problem where I do not see the need for it to be that. I would like your comments actually as to whether you feel it could ever be changed back so that the average person could go in there and be comfortable.

Mr Weber: That is exactly a word I have used, Mr Waters, that it does encourage legalism. It is a concern that I have and I understand exactly what you are driving at. By the same token, the existence of the legislation makes it a protection for all parents and children. Without it, it is entirely possible that knowing and unknowing harm could be done. At least it is there as a backup procedure, because the legalism that would become involved would be even worse. We certainly experienced it before the legislation was passed in that when parents are not satisfied with the procedure, they tend to turn to the civil court, which invokes a great deal more legalism than exists under the tribunal process or under the appeal process set up by what we have come to know as Bill 82. Certainly we are all concerned about the legalism, but I think it is safer with this degree of legalism than we had before, or that would result if parents turn to the civil courts.

If I may come back to my comment made to Mr Silipo, though, it certainly would be better if we could achieve facilitation between parents and school boards, if there were an easier way to achieve that. We are evolving that, because I have been involved in a number of situations where boards and parents independently have asked me to sit as a facilitator between the two. I think we are evolving in that direction.

Mr Waters: I am quite glad to hear we are evolving in that direction. I will pass on to anyone else.

The Chair: It is pretty much the time, or is it? Sorry, it is a 10-minute review. Pardon me, I am coming in in the middle of this. Mr Hayes, you have another five minutes.

Mr Hayes: There is a lot of talk, discussion and study dealing with some students in vocational schools, for example, and of course there is a lot of talk about integrating them into the mainstream type of thing. I would like to hear your opinion and your feelings on that particular subject of integration.

Mr Weber: It is a large issue, Mr Hayes, and I promise to be brief, because that is where much of my research lies and I could probably go on for ever.

There is no question that it is a desirable issue to mainstream all students, at least on the surface. Research evidence does not support the emotional feeling one gets that stands behind the proposal to integrate all students in that sense. The research evidence suggests that academically these students tend to perform—in fact, just this morning I put together one of my own pieces, which is at this stage incomplete, that again reinforces the notion that academically the students do tend to do somewhat better in ability grouping stages than they do when they are integrated. The fault could lie elsewhere, though. It might not necessarily be the fault of the children, it could be just because we are not prepared to instruct them in a mainstream situation. It may well be academic, though, by 1992, because that is when the destreaming begins at grade 9.

Mrs Haslam: Although I look at special needs as covering many areas and not just looking at a particular handicap, I think special needs encompasses many different things. I was just interested in his comments because I do not agree with the streaming. I prefer to see children have an opportunity to attend a mainstreaming type of education, because I think that is beneficial. However, that is a comment I would like to make, that I was interested in your research because it is not my feeling for the education system right now. But I will pass a question, Mr Chair.

The Chair: Mr Curling, do you have any questions?

Mr Curling: May I just ask Mr Weber one question? Have you had experience at how teachers really deal with special needs within the normal system? Do you have any experience at all of how this is done? Because you are asking that the special-needs students will be a part of the everyday structure.

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Mr Weber: You are asking if I have personal experience with this, Mr Curling?

Mr Curling: Yes.

Mr Weber: Yes, I do. I actively work with children with special needs in a mainstream setting as part of my work at the University of Toronto. Have I answered your question? I am not sure.

Mr Curling: Yes, you have. I do not have very many questions to ask you because the material just came to me a minute ago anyhow.

The Chair: Mr Jordan, do you have any questions for Mr Weber?

Mr Jordan: To what degree are you in favour of promoting the integration of special ed with regular classrooms?

Mr Weber: In principle, I am in favour of it, and in the best of all worlds we would achieve it on a 100% basis. In practice, the experience is that it does not work absolutely on a 100% basis from all perspectives: the children with special needs, those without, the teachers, the parents; everyone. I think that my philosophical attitude is that it should be an objective towards which we all work but which we do not impose on an arbitrary blanket basis. If we truly believe in working in the best interests of every child, which I think is what the legislation certainly stands for and the reason we all work, then we will take every case on a by-case basis.

Mr Jordan: Excuse me, but who is "we" now?

Mr Weber: I would think we being legislators, teachers, parents; everyone.

Mr Jordan: So if I have a child who would normally be in special ed because of a handicap and I insisted that that child become part of the regular education stream, what authority would I have to say that in fact my child would go to the regular school?

Mr Weber: The likelihood is in 1991 your first approach would be to the principal of the school and the school would most likely agree with your wishes and the child would be placed in the mainstream with the rest. If the school disagreed, you would have the option, of course, of going next to the appeal board, which will either uphold the IPRC, or the school's committee, or uphold your opinion. If there is dissatisfaction at that level, it would come to tribunal for discussion, which is the appointment of mine that is being discussed here. The tribunal would then make a decision based on all the evidence, acting in the best interests of the child.

Mr Jordan: I do not know if it is in order, Mr Chair. I give as an example in my own riding, and my daughter-in-law happened to be the teacher who ended up with this student, one who has now been recognized across the North American continent for the progress made in the regular classroom because of the special ed teacher being placed there to deal with that person on a one-to-one basis, but it was only through a number of years of consistent pressure that the parents were able to get that student into that stream.

Mr Weber: I am sure that is the case, and it is probably a tribute to your daughter-in-law the teacher as well for making this kind of thing happen, as well as of course a tribute to the parents.

In the current climate, the current climate being today, 1991, the likelihood is that the parents you refer to would not have to struggle to the degree you indicate. The receptiveness of all schools and all boards towards, first of all, following parents' wishes and simultaneously following them in terms of integration is much greater than it was as little as four or five years ago—as little as two years ago.

Mr McGuinty: Mr Weber, you have in the past been somewhat critical of faculties of education for failing to prepare teachers adequately for teaching their students. I wonder if you might indicate if you have any views on how well teachers deal with children with special needs.

Mr Weber: You mean vis-à-vis their professional preparation?

Mr McGuinty: Yes.

Mr Weber: There is probably very little preparation at all, because our system in Ontario generally is based on a one-year teacher preparation program. When you include all the traditional things in that program—and tradition has a way of establishing itself with a great deal of permanence—there is not a great deal of time left over to try and prepare those teachers for dealing with special-needs children. The fact that the teachers do an exceptionally good job with special-needs children is perhaps more of a tribute to their own personal ability and their will and their humanity and compassion than it is to the preparation they receive.

Mr McGuinty: Is there more we should be doing?

Mr Weber: Certainly there should be more opportunity to prepare the students, and I just do not think it is possible to do it in a one-year program—in a one-year university-year program, too, which is, in effect, seven and a half to eight months.

Mr McGuinty: I am not sure I understand it completely. What is the name for this one-year program you are referring to?

Mr Weber: It is the teacher preparation program that is most common in Ontario. There are a few small exceptions. My home base is the Institute of Child Study which is a two-year program, and we are able to achieve things that could not be dreamed of in a one-year program. York University has a pre-service program, but the vast majority of faculties of education at the universities in Ontario which have them, and I believe there are 10, have a one-year program, which is a post-degree program. You have a degree first and you apply to get in, and then you have a one-year teacher preparation program which grants you a certificate if you are successful, as most students are.

The Chair: Thank you very much, Mr Weber. I appreciate your appearance here today. We will be in touch with you next week.

Mr Weber: Thank you.

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COLOMBE DAIGNEAULT

The Chair: The final witness to appear before us today is Colombe Daigneault. Would you like to come forward, please.

Mrs Daigneault is the intended appointee as the chair for the French tribunal of the Ontario Special Education Tribunal. Welcome to the committee.

We appreciate your appearance here. Would you like to make any brief comments before we open it up for questions?

Mrs Daigneault: No. This is a first for me, to appear before a board to obtain an appointment, actually. I have been appointed on the board for the last four or five years without even appearing anywhere, just getting a letter, "You have been appointed", and I did not know there was such a thing.

In any event, I have had the occasion to sit on three different cases through the years, two in Ottawa, I believe, and one in Toronto, and I have enjoyed the experience, but I am not an expert.

The Chair: Thank you. We will begin the questioning with Mr Silipo.

M. Silipo : Bienvenue, madame. En tant que personne responsable, dans un certain sens, par votre présence ici, je voudrais commencer par ce que vous venez de dire. Votre expérience semblerait, à regarder votre curriculum vitae, limitée dans un certain sens. Mais évidemment aussi, vous avez de différentes expériences comme enseignante et maintenant comme avocate. Qu'est-ce que vous apporteriez au tribunal qui serait, de façon particulière, basé sur votre expérience ?

Mme Daigneault : Ce que j'apporterais, ce serait peut-être un jugement basé sur les faits qui me seraient présentés par les divers témoins. Je pense que chaque cas demeure sur ces faits ; il faut juger chaque cas séparément selon les circonstances et les faits pour déterminer le résultat.

En tant qu'enseignante, j'étais bien préoccupée de l'élève doué et de l'élève sous-doué. Je veux que chacun puisse développer son potentiel au maximum, que ce soit un enfant sous-doué ou surdoué. Je ne crois pas à une dépense d'énergie pour rien. Il faut que l'enfant s'améliore.

M. Silipo : Selon vous, sur la question d'intégration, quels devraient être les critères selon lesquels on déciderait que c'est positif ou meilleur d'intégrer l'étudiant dans une classe régulière ou par contre de ne pas l'intégrer, par exemple? Quel serait le rôle du tribunal dans ce type de situation ?

Mme Daigneault : Le tribunal se doit de regarder tous les faits, toutes les pièces qui sont devant lui. Il y a les tests de psychiatres, de psychologues, académiques et les côtés social et émotif.

Il faut que l'enfant puisse avancer de tous les côtés : émotionnellement et sur les plans académique et social. Si le côté social de l'enfant est négligé, parce qu'il est dans un mainstream, qu'il est avec l'élève moyen et qu'il se referme sur lui-même parce qu'il a peur qu'on rit de lui parce qu'il a des connaissances au-delà du groupe dans lequel il travaille, alors à ce moment-là il y a quelque chose qui ne va pas. Il faut que l'enfant se développe, et qu'il soit, à mon avis, a wholesome child.

Il faut écouter les témoins puis regarder les pièces justificatives de divers professionnels et voir quel est le meilleur intérêt de l'enfant et comment cet enfant peut se développer pour faire de lui le meilleur citoyen possible dans la province et au Canada.

Mr Waters: Do you feel there is enough training of teachers for children with special needs?

Mme Daigneault: I am not really up to date on the most recent training afforded to the teachers. I can only tell from my daughter who is involved in secondary teaching and who is involved with Douance, with the exceptional child now, and from my own experience, when I had one child who really needed extra help and was very brilliant, and I attributed the deficit to the poor training of the teacher who had initiated her in reading. Fortunately I had

been involved in education and I did find a remedy, but I think lots has to be done in special ed now.

On what kind of training, I am not versed in the latest courses offered for teachers. I do not know what is done at the university level except that there is summer school and there is university training, as I heard Mr Weber say. But I think there should be a committee studying the needs of the exceptional child and whether we give more to the teachers in training.

I have been involved in the last year with this committee which we hope to call Douance-Ontario; I am trying incorporate the association under the name Douance-Ontario. We would be dealing with the exceptional child. The rules and regulations are done, we have our committee. All we need is a name for the corporation, for the non-profit organization, and it appears we will have difficulty with the Ministry of Consumer and Commercial Relations because the name Douance-Ontario is just too vague and not descriptive enough, though I have given them translations.

We are in the process of preparing a recommendation to make sure they accept it, because it is at the provincial level and we do not meet that often—we have people from all over Ontario. So we are hoping to have the ministry accept the name Douance-Ontario, and then have the pupils, the teachers, the administration, the school boards involved. We are divided in four different areas, Ontario north, south, east and west. We surely count on the co-operation of the ministry to put that into action within the next couple of months because we are ready. I do not know if I answered your question, but—

Mr Waters: I think you did.

Mrs Daigneault: This group is for French-speaking people, actually. I would trust that maybe there is a similar organization on the English side. Maybe we are copying or we are just behind a little bit, but I would hope that this group would certainly ensure that the teachers' training is improved. They will look into it, anyway.

The Chair: Mr Wiseman, you have got about three minutes.

Mr Wiseman: Thank you. It will not take that long.

One of the questions that comes to mind is that in my previous life I was a high school teacher and the integration of exceptional children into the classroom is not an easy thing. We have already alluded to the fact that teachers need special training and special skills in order to handle it properly, which I would hazard to say most do not have. It is going to take an awful lot of time to retrain the population of teachers to be able to handle that.

There is another part of the equation that could be a problem and that is the exceptional child in the classroom itself and the dynamics that that creates with the interpersonal relationships that exist there and the teacher-pupil relationships that will exist there. It is very difficult with a large number of students in a class for teachers to give as much as they would like to the needs of each student. I am just curious if you have given any thought to what kind of pupil-teacher ratio might work or might not work and how you would see this kind of integration taking place.

Mrs Daigneault: Teacher ratio: First of all, it is expensive also. It is not easy and it is expensive. Teacher ratio? I think a lot has to do with the way the teacher deals with the class. I think you can use, and I did in my days of teaching, the students to help other students because I find students learn a lot from other students. They learn faster from their colleagues than they learn from teachers, and I have used it in teaching French to English-speaking pupils. A lot has to do with the teacher.

A handicapped child or an exceptional child or an enriched child has certain needs which colleagues cannot offer, like washrooms or moving from one desk to another, and the responsibility is too great for colleagues to handle. Then there is the teacher aide. I suggest for the basic physical needs, it is a teacher aide who would be the solution. Teacher ratio, it is hard to tell, but I really think a lot has to do with the basic way that the administration deals with it. I have seen a handicapped child being integrated with her friends in my daughter's days. Everybody pitched in. She was part of their social life and she did not feel handicapped at all. Everybody had a responsibility for that child.

The teacher who goes for special ed has to be a special teacher, as Mr Weber said. I think teachers who are special ed teachers now are relying more on their inherent aptitude, their capability, than on the academic training they did get from universities. Teacher ratio—if they are integrated in a regular stream of, say, 30 students, it is hard to tell. I think there should be a teacher aide for each two or three handicapped children in each classroom. It is hard to tell.

Mr Wiseman: Like you say, that will not come cheap.

1250

Mrs Daigneault: No, but it depends on how many handicapped children you would have in a classroom. I think there would not be more than two or three in a classroom at the most, but it is not really my field at this time.

The Chair: I will have to jump in here, Mrs Daigneault, because of the time limit. We are going to ask Mr McGuinty now to proceed with questioning.

M. McGuinty : Bonjour, Madame Daigneault, ça me fait plaisir de vous souhaiter la bienvenue à Toronto.

Mme Daigneault : Monsieur McGuinty est mon voisin et mon député de l'Assemblée législative.

M. McGuinty : Je devrais dire aux membres de notre comité que ça fait plusieurs années que je connais Madame Daigneault en tant qu'avocate. Elle est très bien respectée dans notre communauté non seulement comme avocate mais aussi comme bénévole.

Combien de temps est-ce que vous passez actuellement dans votre poste de présidente de ce qu'on appelle le «special education tribunal»?

Mme Daigneault : J'ai seulement travaillé sur le tribunal pour trois cas, dont l'un a été très court et l'autre exigeait deux ou trois jours de séances. Alors pendant une période de quatre ans, j'ai peut-être passé deux semaines, c'est-à-dire 75 heures au maximum. Nous avons rédigé un seul jugement. Les jugements, on n'y a pas fait appel.

M. McGuinty : Est-ce votre opinion qu'il est nécessaire d'avoir un avocat ou une avocate comme président du tribunal ?

Mme Daigneault : Pas nécessairement.

M. McGuinty : Est-ce que les parents et les élèves qui comparaissent devant vous ont avec eux des avocats ?

Mme Daigneault : Un cas en particulier était très bien préparé par le père, et il faisait ça aussi bien qu'un avocat, peut-être mieux. Il était très bien préparé et très connaissant de son cas. Bien souvent le parent très impliqué ne serait pas représenté mais le conseil scolaire est représenté par un ou deux avocats dans chaque cas.

M. McGuinty : Le docteur Shapiro, l'ancien sous-ministre de l'Éducation, avait critiqué un peu le procès en disant :

"I understand how it might be intimidating in some sense. And here we find ourselves caught by two opposing kinds of forces. One is the one that says: 'Let's try to humanize the process, bring it down to an appropriate scale so that the parents feel that this is a real interaction.' On the other hand there is another force, and that is that since people are very concerned, and legitimately concerned, with their own rights in the process, the need for formality increases with a number of lawsuits which we face in those instances where it was not carefully observed, so we have this kind of tension that exists. How do you bring it down to a more human interaction and, at the same time, how do you stage it in such a way that when a court examines it, it stands up to reasonable canons of natural justice?" Est-ce que vous pouvez commenter ça?

Mme Daigneault : Ça me rappelle une cour d'équité. Si vous allez comparaître devant un juge, par exemple, de cour de petites créances, le juge de petites créances est peut-être plus sympathique au client qui se représente lui-même que le client qui est représenté par un avocat. Lorsqu'on voit un parent qui présente son propre cas, je crois qu'on s'assure que ses droits sont respectés ; on est sympathique à son cas. Alors votre question, vous me demandez de commenter…

M. McGuinty : Pensez-vous que ce conflit existe ?

Mme Daigneault : Non, pas dans les cas où j'ai agi, absolument pas.

The Chair: Mr Jordan, do you have any questions?

Mr Jordan: No, I do not.

The Chair: Mrs Daigneault, thank you very much for your appearance before the committee. I think you are aware that we will be deliberating on your appointment next week. The Clerk's office or the Premier's office, I am not sure which, will be in touch with you following that.

Mrs Daigneault: Thank you.

Mr Curling: Mr Chairman, if I may, on a point of order: I noticed when we were interviewing some of the applicants coming before us that quite a few of the members are quite familiar or have relationships with the members brought before us. I just wondered if it would not be fair if they could not have substituted—Mr Silipo, for instance, said to Mr Weber, "I am responsible for bringing you here," if I heard him right, when he came forward here. It would have been better if we had substituted—

Mr Silipo: I am sorry, I should perhaps clarify that particular point. I was responsible in the sense that the person was chosen by the government party to be here and I am the representative of the government party on the subcommittee. So that, Mr Curling, was the extent of that connection.

Mr Curling: That is clarification. Thank you.

The Chair: Okay, fine. Is there anything further? This has been a long haul. I appreciate your participation. We will adjourn the meeting.

The committee adjourned at 1256.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 5 June 1991

The committee met at 1008 in committee room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

MARC ELIESEN

The Chair: Come to order, please. We have our agendas in front of us and we can get under way right away the discussion of the review of the intended appointment of Marc Eliesen as the chair of the Ontario Hydro board of directors. As it has become the custom, I would like to have a motion on the floor in respect to Mr Eliesen's appointment, either concurring with the appointment or otherwise.

Mr Waters moves that the committee concur. Is there any discussion on the motion? No discussion? All in favour of the motion?

Mr Grandmaître: Are you looking for an argument?

The Chair: I thought there might be something said.

Mr Waters: I thought we had turned over a new leaf last week.

Motion agreed to.

ELMER McVEY

The Chair: The next intended appointee I will require a motion for is Elmer McVey. Again, Mr McVey is being appointed to the Ontario Hydro board of directors. Mr Silipo moves the appointment of Elmer McVey to the Ontario Hydro board of directors.

Motion agreed to.

JERRY WOODS

The Chair: The next is Jerry Woods, who was selected by the third party and is the intended appointee.

Mr Hayes moves the appointment of Jerry Woods to the Ontario Human Rights Commission.

Motion agreed to.

ST CLAIR WHARTON

The Chair: Mr Waters moves the appointment of St Clair Wharton to the Ontario Human Rights Commission.

Motion agreed to.

FRAN REID ENDICOTT

The Chair: Mr Silipo moves the appointment of Fran Reid Endicott to the Ontario Human Rights Commission.

Motion agreed to.

CARMEN PAQUETTE

The Chair: Mr Silipo moves the appointment of Carmen Paquette to the Ontario Human Rights Commission.

Motion agreed to.

GAËTANE PHARAND

The Chair: Mr Silipo moves the appointment of Gaëtane Pharand to the Ontario Human Rights Commission.

Motion agreed to.

KENNETH J. WEBER

The Chair: Mr Waters moves the appointment of Ken Weber, the intended appointee as the Chair of the Ontario Special Education (English) Tribunal.

Motion agreed to.

COLOMBE DAIGNEAULT

The Chair: Mr Wiseman moves the appointment of Colombe Daigneault, the intended appointee as Chair of the Ontario Special Education (French) Tribunal.

Motion agreed to.

The Chair: I want at this juncture to mention something that was discussed at the subcommittee meeting yesterday. In the future, when we are going through the reviews of intended appointees, following conclusion of our reviews I am going to just pose a brief question to the members of the committee with respect to how much time we feel should be allocated for decisions following our review, such as we have done today.

We are required to allocate a one-hour review, but practice is showing that rarely do we have any debate or lengthy discussion, and we certainly do not come close to using one hour. We do have a pretty full backlog of business that we are having difficulty dealing with, so I am going to suggest that we go with a 10-minute review, which is probably more than adequate, unless there is a request from a member or members of any party, or any member of the committee, for that matter, who feels that we require the hour. Then we will so do. Otherwise, we will simply slot in the 10 minutes, and that way we can get other business on our agenda as well and start to cut into that backlog. Is everyone in agreement with that? Good.

BUDGET

The Chair: The next matter of business on the agenda is the committee budget. I do not know whether anyone has had much of a chance to take a look at this. I am going to ask the clerk to take us through this and perhaps make some comments and then we can direct questions through the Chair to the clerk if need be.

Clerk of the Committee: The budget is for the fiscal year 1991-92, taking the committee up to 31 March 1992. It is essentially based on the last committee budget approved, with the exception that the subcommittee directed that a budget be prepared to provide for 12 weeks of meetings in view of the committee's expanded responsibility on an ongoing basis to review intended appointments and the expectation that it would take a fair amount of meeting

time through both the summer adjournment period and the winter adjournment period.

The Chair: If you could go through each category, if you do not mind.

Clerk of the Committee: Sure. The meeting per diems, travel per diems and meal expenses are statutory items providing for full five-day weeks. Normally, so far the committee has been meeting only four days per week or three and a half. That can be adjusted if you wish, but I normally recommend that you leave in five days per week just in case you need the additional time.

Travel-transportation is an estimate based on a changing committee, when there are substitutions through the summer. It is hard to calculate exactly what expenses will be on a weekly basis, and so I estimate $1,000 per week for members travelling into and out of Queen's Park meetings.

The last budget provided for the possibility of advertising committee hearings on agency reviews or some matter and, again, $20,000 is provided.

Simultaneous interpretation services were not needed in the last assembly as we were able to use committee room 151 when required, but I have put in a provision for that in case it is needed.

Translation-transcription services were used to a limited extent in the translation of the committee's report. That was around $1,300. If the committee has more extensive reports, for example on agency reviews, I would expect that amount to be higher than just $1,300.

Witness fees and expenses were requested to be provided for in the last budget for witnesses who may be called in on the agency reviews, and in the last assembly we did use that provision for witnesses called in to discuss the general approach the committee would take to its review of intended appointments, that entire process.

The printing of committee reports, printing of committee exhibits, is a standard figure, and "books, maps and publications" I do not believe we used last time at all.

Meeting room rental would provide for rental of meeting facilities should the committee travel anywhere in Ontario for meetings on agency reviews.

Catering and hospitality is essentially for services here at the meetings at Queen's Park, and the rest of the items, except for equipment rental, are standard to each committee budget. Equipment rental would provide for either sound equipment brought into a meeting here, if the committee had to pay for it, if broadcast services were not paying for it; or if the committee is travelling into an area where simultaneous interpretation is required and facilities are not provided by the meeting place, we would have to rent those facilities.

So the total $187,548 compares to last year's approved budget of $110,340, of which the committee spent, by 31 March, $44,995, less than half.

Mr Grandmaître: Before we approve the budget, can I go back to the printing of reports? Now that we have received a binder on the appointments and so on and it is outdated—it looks great, but it is outdated—how will this committee or the members be informed of the additional appointments? How can we replenish our binder or keep it up to date? Have we planned this? How can we do this? Let's face it, it is a great binder but it is outdated; the day it is printed it is outdated. How can we update ourselves without having to print a complete binder every three or four or six months? I am sure that is quite expensive.

1020

The Chair: Can I have a little elaboration on what you are talking about in terms of outdated? Is this the book we looked at yesterday?

Mr Grandmaître: Yes.

The Chair: And that is outdated in what sense, in the fact that there are new boards being established?

Mr Grandmaître: That is right.

Mr Silipo: Unless Mr Grandmaître has a connection to something the committee should be doing with respect to the budget, I think that is really another item. It is not something that is published by the committee.

The Chair: It is an inquiry, though, that we can certainly make of the—

Mr Grandmaître: That would not be part of our budget?

Mr Silipo: No, it does not come out of our budget.

The Chair: It would not be part of our budget, but it is certainly an interesting point to raise. I will ask the clerk to pursue that with Carol Phillips to see how they intend to deal with that matter, and get back to you.

Mr Frankford: I liked the suggestion before that this should be in electronic form—it could be on a computer disc—which would address these problems entirely. One could really do very interesting things and do searches, expiry dates of appointments. I think this is an excellent opportunity of encouraging government to get into the electronic age.

The Chair: We will relay that as well to Ms Phillips. Are there any questions about the budget specifically? Mr Silipo.

Mr Silipo: No, I am just going to move concurrence with the budget.

Mrs Haslam: Could you review for me again? You said we had spent how much of this budget so far since—

The Chair: It is not this budget, it is the last one.

Mrs Haslam: Of the last one, we spent half? That was $134,000. The last budget that we passed was the 1990-91 budget and it was $134,716 in 1990-91. I got that from the back of my files. How much of that budget did we spend?

Clerk of the Committee: It was $44,995 as of 31 March, which is the last printout I have. It is possible there may be more expenditures that were brought in by year-end process in April or May. I have not received those.

Mrs Haslam: I have one more question. In the 1990-91 budget we grouped travel-accommodation and travel-transportation. We took that and decided to put it into witness travel, $6,024 for witness travel. I am a little confused as to exactly what happened in that area, because now it is at $12,000 for travel-transportation, meetings at Queen's Park. Is that for witnesses or for extra—

Clerk of the Committee: Travel-transportation is for members to be reimbursed for their expenses in travelling in to meetings at Queen's Park.

Mrs Haslam: During the summer?

Clerk of the Committee: Yes. Only when the House is not meeting does the Legislative Assembly Act provide that members must be reimbursed for travel expenses coming in to meetings.

Mrs Haslam: What does the travel per diem on the top of the budget cover, then?

Clerk of the Committee: That is a per diem not reimbursing for actual expenses, just a per diem, the same amount as for a meeting day for members who travel in the day before a meeting, travel out the day after a meeting. Members living outside of Metropolitan Toronto are entitled to claim that. Not all do, but they are entitled to.

Mrs Haslam: The "meetings at Queen's Park" covers other members or additional costs in that travel? Is that what it is?

Clerk of the Committee: Travel per diem does not deal with costs at all. It is a per diem.

Mrs Haslam: So on top of that, then—I am sorry, but I would like to get this straight. It is $12,000 here, it is $22,000 up there and in the last budget it was—we were trying to cut back, and I have a concern about this.

You live outside of the GTA. You travel by train. So what you are saying is the per diem is $78 and then the train fare of $20 comes out of the travel-transportation aspect.

Clerk of the Committee: That is correct.

Mr Grandmaître: You are on the right track.

The Chair: Anything else?

Mrs Haslam: Could I ask one more point of clarification?

Interjection.

Mrs Haslam: I hope she picked that up on Hansard, because that is going to look mighty interesting in this committee.

I have a question as to why the cost went up by approximately $50,000.

Clerk of the Committee: In total?

Mrs Haslam: Yes.

Clerk of the Committee: Because the number of weeks of meetings provided for has increased by 200%.

The Chair: Anything else? Mr Silipo's motion concurring with the proposed budget, all in favour?

Motion agreed to.

ORGANIZATION

The Chair: That completes our agenda, but I would like to spend a few minutes, if members do not object, in talking about what we are going to do, as we have dealt with the budget. We have proposed 12 weeks of sitting time. This was discussed at subcommittee. Members who serve on the subcommittee will want to comment on this, I am sure, but there seemed to be a consensus, among members of the subcommittee in any event, that there was not a lot of enthusiasm about sitting in July. I do not think any of the House leaders are going to agree to committee sittings in July, and the subcommittee members were supportive of looking at sittings in late August and September before the House comes back.

Also, we have a concern about the fact that all of our time is being devoted to appointment review and we are having no time allocated to agencies, boards and commissions, which obviously was the initial reason this committee was established. I would not mind spending a little time discussing what we want to do during the summer period and how much time we would like to allocate to appointment reviews and if indeed we want to look at perhaps one agency selected by each party, if we can fit that sort of thing into the time we are going to establish.

Mr Silipo: First, on the time to meet, as I indicated yesterday I do not have any trouble with meeting in that way if that is agreeable to the other members of the committee and to the House leaders, that is, to have the committee meet towards the end of the August.

I guess the only thing we would have to keep in mind is that there is a week in early September where the caucus retreats will likely happen. I think ours is scheduled for that week, and I presume the others are as well, so that will probably mean we will have to think about how far back we need to go into August to start meetings.

The Chair: How long is your retreat going to be, if you do not mind my asking?

Mr Silipo: I think it is two days.

The Chair: I think we are only looking at one day. I am speaking off the top, but we are probably going to be going on the same day the Liberals are—I think 8 September—because we did not want to do the Labour Day weekend like your party is doing. I think your House leaders may want to look at it if you think it is that one.

Mr Silipo: Either way, that would cause some problems with the scheduling.

The other thing is that I certainly would want us to do some work on the review of agencies, boards or commissions. Having missed some of the meetings when the committee was dealing with some of those reviews earlier on, I do not know the details, but of the three groups we had selected to review, I gather two of them are in progress and the third has not even been begun. I presume we would want to at least complete the two we had begun, so perhaps the subcommittee should look at scheduling those in terms of what outstanding work needs to be done on those.

I would suggest we try, at least during the summer sitting, to do a combination of days on which we do reviews of intended appointees and days on which we will at least complete the reviews of those agencies. My sense is that we may not in fact have time to select a new batch of agencies. Maybe we will. If we can, I would be delighted for us to do that.

1030

The Chair: I would like to throw this out for discussion. Again, we have the two we have begun reviews on, the Ontario Municipal Board and the LLBO, so we certainly want to complete those.

We did not get around to the selection by the government party. Dr Frankford actually had mentioned a couple of district health councils. Whether or not we will be able to fit it into the schedule in terms of planning, I suggest each of the three parties select one. You may want to go back to the health councils or you may want to look at something else—the other two parties—and we will try to fit those into the schedule; three selections plus the two we have to complete, which we have already begun and held hearings on.

That is my proposal. We may not be able to handle it, but I think we should give it a shot and see if we can fit them into the schedule. As we get closer to firming up the agenda, we will have a better idea of whether we can handle it. We may have to drop one or two. But at this juncture I would like to suggest that each caucus give this some thought and at the next subcommittee meeting advise its representative on the subcommittee as to one agency it would like to see reviewed in the upcoming break.

Mrs Haslam: I raised a question early in the committee meetings regarding previous reports on government agencies. The report comes out with certain suggestions for the agencies, boards or commissions we look at. Does anybody ever check back to see if those recommendations were carried out?

No information has come back whether we have that opportunity, that responsibility, whether we have that available so we can take a look at previous reports and actually say: "Here were our recommendations. Are they being carried out?" All we do is put them on paper. We do not seem to be checking back to see if they are following through on these recommendations. I would like some information on that, because I remember raising it early in the committee.

The Chair: You will have a formal answer within a week, I am advised, but my recollection—Mr McLean may help me on this—is that this process is not operating now.

In the Ombudsman committee, which I served on a number of years ago, you do have that ongoing, annual sort of review in terms of recommendations that have been made and whether they have been complied with, so you can see whether indeed the government ministry or agency is complying with the requests of the committee. It is probably a good thing that this committee consider adopting that kind of format so that on an ongoing basis we can see whether the agency is complying.

Mr Waters: One of the things I was concerned about, and I asked Mr Silipo somewhat discreetly about, is time lines. If we shut down at the end of June and do not come back—you are referring to the end of August?

The Chair: Near the end of August, yes.

Mr Waters: What if there is some appointment forthcoming that you people—well, any of us from the committee—have some concern about?

The Chair: I am glad you raised that point. That was discussed by the subcommittee and we have the time lines and the temporary standing order with respect to consideration. I do not know what is going to happen about the debate on a permanent standing order, whether we are going to get to that or not in terms of the scheduling of the House, but if not, I gather we operate under the temporary standing order.

Once the appointments are dealt with by cabinet and the order in council is passed, then we have 30 days within which to have the subcommittee meet and make a decision with respect to the ones it wants to see reviewed. So at some point in July, the subcommittee is going to have to get together, as I see it, and then make some decisions. Then you have another 30 days following that, which would take you well into August.

Mr Waters: Yes. It was that 30 days. I just wanted to basically be assured that either we did that or that we had an all-party agreement that we would be somewhat flexible for that 30 days.

The Chair: I think there is an understanding that there will be flexibility. Say there is an urgent appointment, for example, that the government wants to have dealt with. The subcommittee will be able to make the decision whether it simply wants to pass it through, which it can do in any event, just simply let the OIC go through without a review by the committee, or if members of, perhaps, the opposition feel it is important enough that it merits a review, I think there is an understanding that we would call a special meeting, of the committee to deal with that review.

Mr Waters: I just wanted basically to see, because the time frame is more the opposition not having its right to review.

The Chair: I want Mr Silipo's ear on this, if I can have it. This is an important matter we are talking about. Because of the time element with respect to appointments, I have indicated, as I understand it, that there is concurrence within the subcommittee that if we have an important appointment, the subcommittee will either let it flow through—say it has to be done within a certain period of time—or we will call a special meeting of the committee to deal with the review of that appointment. Mr Bradley?

Mr Bradley: Certainly the concern I would have is that the government would be in a position to be stopped in its appointment-making process. Their problem is that they will have many people who will be coming up for reappointment or they will want to put new New Democrats in those positions as they make their appointments, and I do not think the government should be prevented from being able to do that.

Mr Wiseman: Or good Tories or Liberals, as the case has been in the past.

Mr Bradley: I know what happens is that these get backed up and then you might even have a situation where you do not have a quorum on some of these agencies, boards and commissions because there has not been concurrence, so I certainly think the necessity is there.

Second, you mention important appointments. From an opposition member's point of view, the minefield will not be Eliesen and people like that who know how to talk before a committee. The minefield will be the people they appoint locally, the local NDP candidate and so on. I am speaking as an opposition person now. That is the minefield for the opposition to get at.

The Chair: Police commissions and those sorts of things.

Mr Bradley: Yes, police commissions and things like that. That is where you will fall down in your appointments, because every government does. I am not saying just your government. The easy ones are your top people, because you are going to get really good people at the top—that is, from your point of view—who are capable. Whether I agree with them or not, they are capable people.

I would hate to see the government get away with appointing a pile of people, police commissions or something, in the summer, when we cannot get at those appointments. On the other hand, I also want the government to have the ability to continue to make appointments so that it will have quorums on its various agencies, boards and commissions, so we will certainly need to have flexibility.

That is my concern about leaving it to the end of August. I understand we are not an isolated committee, there are lots of other committees, and staffing them, particularly for the opposition parties and maybe even for the government party, is going to be difficult. I understand, Chairman, what you are saying, but I would just not want to see the opportunity go by to find the New Democrat I have been waiting to launch into.

The Chair: I do not think you will miss that opportunity because of the structure of the subcommittee.

Mrs Haslam: Just as Mr Bradley never misses an opportunity to say these things, right?

The Chair: Because of the structure of the subcommittee, the opposition has the ability to require a review, so I think if the feelings are strong enough with respect to an individual appointment or a group of appointments, we will simply move ahead with a special meeting. It may be a little difficult arranging that, but I am sure we can pull it off.

Mr McLean: I was just wondering whether there probably should be a motion near the end of the session by the House leader that this committee is authorized to sit at the call of the Chairman as the need may arise. In that way it would make it very flexible to call a meeting at any time. If we had a motion at the end of the session by the government House leader to allow that to happen, it would be very clear.

Mr Wiseman: That could be a very difficult thing to do. If the standing committee on finance and economic affairs starts to move in the direction that has been discussed, that would raise some problems for me, at any rate.

Mr Silipo: It is going to be the case for all of us.

The Chair: There are going to be substitutes flying around all over the place. That is the way it works around here.

Mr Waters: What Mr McLean was saying is fine, so long as it is done through the House leaders so that everyone is well aware. Mr Silipo may not even be able to get hold of us. I do not have any idea where Mr Silipo will be.

Mr Grandmaître: I am sure it will be done through the subcommittee.

The Chair: Oh yes, we have to do it through the subcommittee. We are required to do that.

Mr Waters: The other thing that I was concerned about, with the discussion of late August—and it makes it awkward any earlier—is that if we back up too many appointments, once again we will not get at the ABCs. We will have such a list of appointees to hear that we will not get at the other half of what our function is. I do not know exactly how we are going to work that out. I truly believe there are two halves to this and I think we have been neglecting one half.

The Chair: There is obviously an understanding here that we are probably looking at about five to six weeks of sittings. As we have said in the past, we have been sitting three and a half days; we may have to look at five days of sittings per week. We may have to do a number of other things. Again, the subcommittee has to review these things with an eye to what they really feel is important for review. We have been feeling our way through this process and I think in some instances—this is again just my opinion—that we have called people for review and in many instances I have wondered about the rationale behind it.

We can talk about the reviews we did last week when we had that marathon session. A 15-minute review of someone is ridiculous in my opinion. When we are making these kinds of selections we have to do it in perhaps a more appropriate way with respect to ensuring that perhaps we are seeing fewer people but it is more quality time in terms of the interview process. That is obviously a responsibility thrust upon the subcommittee. Hopefully we are going to approach that perhaps a little more—I hate to use the word, but—responsibly than maybe has been. I do not want to tar everybody with the same brush but I thought last week was not an appropriate situation.

Mr Waters: There have been times when—and it was not only last week. We will have somebody sit in these chairs here and everybody will say from all three parties, "You're the proper choice." Why did we bring them in to review them?

The Chair: I agree.

Mr Waters: Why argue? To me that was a waste of time. I think the subcommittee—it is growing pains and will rapidly work those things out.

The Chair: I am hopeful that we can do what we have to do with respect to appointment reviews plus get a look at a few agencies, because I think that is the important part of this committee's mandate and we are totally neglecting it now.

Mr McLean: I am not sure, Mr Chairman, but when we get into dealing with the agencies, we probably could work one day a week with regard to what we have been doing and have the other three days for the agency. Each week do one day of the appointments and the other three days on agencies. I think it could be worked out if it is scheduled properly.

The Chair: We can leave that with the subcommittee. Mr Silipo is not here but I want to just remind the members of the subcommittee for our next meeting to have one agency selected by your caucus that you would like to see reviewed. Anything further? I guess that is it, then. Meeting adjourned.

The committee adjourned at 1043.

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Appointments review

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Première session, 35e législature

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 12 June 1991

The committee met at 1018 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

The Chair: I am going to see a quorum and get under way. We have witnesses who are waiting to appear and I do not want to delay the proceedings any longer than we already have.

The first item on the agenda is the report of the subcommittee on committee business, which is attached to your agenda. I just wonder if any members have any questions or comments they would like to make with respect to that report. As you see, we agreed to waive the right to review a significant number of potential appointees simply because of time constraints.

CHISANGA PUTA-CHEKWE

The Chair: We will move on to the next item of business, and that is the half-hour review of Chisanga Puta-Chekwe, who is an intended appointee as a member of the Criminal Injuries Compensation Board. Welcome to the committee, sir. Would you like to make brief comments?

Mr Puta-Chekwe: Just one or two minor points: First, I apologize for my late arrival, but unfortunately I was not in control of the traffic in Toronto. It took longer to get from the airport to downtown Toronto than it did to get from Ottawa to Toronto. That is one minor point.

Second, there have been some minor changes to my curriculum vitae, and I have an updated CV, if that is of any interest to this committee.

The Chair: The clerk can take that from you.

Mr Puta-Chekwe: Unfortunately I have only two copies.

Third, there is likely to be a further change in my status in the sense that I appear for my citizenship interview on 4 December. I could not get it any earlier than that.

Other than that, I think we are on track and I have no further comments.

The Chair: Mr Puta-Chekwe, you were the selection of the official opposition and we are going to begin the questioning with Mr Elston. Mr Elston, would you like to have a copy of the revised CV?

Mr Elston: Yes, it would be fun, Mr Chair, if you could, although I suspect that my questions will be brief. Welcome to Toronto. We have to live with this traffic here. If this government would just get around to putting some money into roads, it would really make things a lot easier.

Mr Wiseman: You have a lot of nerve saying that, Mr Elston, coming from eastern Ontario.

Mr Elston: I recall having been buffeted on the odd occasion by other people, and even by a guy by the name of Richard Johnston, who will appear later for some merciless interrogation about his appointment.

I was going to ask, actually, if you were involved in any sort of public partisan activity, but then it says you have "the ability to write concise and learned decisions," which automatically excludes you from political activism, I presume.

Mr Puta-Chekwe: I do not know if it excludes me from political activism, but I am not involved in political activities.

Mr Elston: You have been in Canada for how long?

Mr Puta-Chekwe: We have been landed here since February 1988.

Mr Elston: Have you followed the development of the criminal injuries issues at all prior to your making application for the position?

Mr Puta-Chekwe: Yes. I was interested generally in what it does. I cannot claim to have followed that with any detail, but I was interested in the concept of compensating people who inadvertently happen to be victims of crime, because that is a major gap in law practice that I found to be quite bothersome.

Mr Elston: Are you practising now in Gloucester, or Ottawa?

Mr Puta-Chekwe: No, I do not practise law as such, but I do act as a legal consultant on English law.

Mr Elston: You have practised English law?

Mr Puta-Chekwe: Yes, I have.

Mr Elston: In criminal areas?

Mr Puta-Chekwe: I had a general practice in Zambia, and criminal work and constitutional work was the bulk of my practice.

Mr Elston: It mentions here specifically that you have the admirable attribute of being compassionate. How would you take that as part of the briefing notes that we have received, to contribute to your role on the board?

Mr Puta-Chekwe: I do not know the context in which that remark was made.

Mr Elston: It is just, "The proposed member has the following skills and qualities," and one of them is "international experience," which of course we know about, and the legal education, and "is compassionate and has the ability to write concise and learned decisions," which of course may be that you are compassionate enough to write concise decisions. Maybe that is part of it. But I wonder. Sometimes when we deal with issues of compassion it is kind of nice to know from whence you begin the assessment for the use of compassion, if I might say that.

Mr Puta-Chekwe: In the context of service on the board, I think it is an important attribute to have, because if

you have that attribute, you realize that persons seeking a remedy in terms of the act are not subjecting themselves to the normal rules of procedure that would pertain in a normal court. You therefore have more time to listen to them. You are authorized to a fairly large extent to waive some of the more restrictive procedural constraints that would obtain in an open court. I think that is an indication of the kind of compassion that is required.

Mr Elston: In terms of your membership on the board—it is a little more difficult; I know you do not have the experience there yet—have you set for yourself any general goals or guidelines in terms of the way you hope to approach your dealings on the board?

Mr Puta-Chekwe: Yes, I hope to make a contribution mostly in the area of speed. The people appearing before the board have suffered damage, have suffered injuries. They are not looking forward to a Spanish Inquisition. On the contrary, they are looking forward to a speedy settlement of their claim and I think speed in that context would be of use to them. So a major goal would be to speed up the process or to contribute to speeding up the process.

Mr Elston: Some of the issues with which you will be faced, I suspect, would be quite daunting, in a way. I suspect the circumstances by which people arrive at the Criminal Injuries Compensation Board will develop from very difficult times for the people. How do you see your role in entertaining the application and then perhaps doing interviews with people who have come through things like sexual assault or brutal assaults, for instance? Can you explain how you might approach one of the applicants in a case like that?

Mr Puta-Chekwe: When people are victims of sexual assault, first they have to be victims of crime. The crime has to be established, but not in the sense that it would be established in a court of law. In other words, as the act provides, you could have a victim of crime being eligible to get compensation, notwithstanding that there has not been a conviction of the criminal. That is worth bearing in mind.

Of course, specifically in the case of sexual assault, we have to bear in mind the kinds of constraints that victims of sexual assault complain about in the regular court system. Again, you have to be very sensitive when you solicit information from them. You have to be very sensitive in the kinds of questions you put to them. The minute you establish a prima facie case, you really ought to stop and get on with preparing an award.

Mr Elston: Let's talk a little bit more about after some experience there. Do you find yourself thinking of a role in developing the business of the board, developing policy, doing any writing with respect to the way it is performing in terms of providing advice, in addition to dealing with case materials?

Mr Puta-Chekwe: I do not think so. The duties of the board are fairly well and are clearly stated in the act. I must say it is one of the clearer acts of Parliament.

Mr Elston: Who passed that one?

Mr Puta-Chekwe: I think a great deal can be done within the confines of that act of Parliament. The challenge I face is to really ensure that as much is being done as speedily as possible.

Mr Elston: Do you see yourself, though, having an obligation if you find something sort of out of line in the way the act is either being run or perhaps in the way the background procedures are operated? Would you see it as your obligation to inform the authorities or the Chair or whomever?

Mr Puta-Chekwe: Certainly, if the act was not being administered as intended, there would be an obligation to inform the Chair, yes.

Mr Elston: What about the issue of the amount of compensation you are allowed to award? Do you see any problems currently, from what you know of the board and its limitations?

Mr Puta-Chekwe: Yes. There is a limitation in terms of a lump sum of $25,000, I think, and in terms of payments of about $1,000 a month. There is also the limitation that the total amount that can be disbursed with regard to one crime incident, for all applications, must be about $150,000. That is a matter for the Legislature. If the amount is inadequate, then there are channels for lobbying for an increase in that amount. But other than the exceptions that are specified in the act, I do not think it is open for a board member to exceed those limits.

1030

Mr Elston: I suppose even if you found that in certain circumstances there may have been a larger amount warranted, you might not state that, but merely state the award itself.

Mr Puta-Chekwe: There would be nothing wrong with stating obiter dictum, as lawyers would say, that had the act allowed, you would have gone for a higher level of compensation. However, the act does not allow it, and therefore we are obliged to award only $25,000.

The Chair: I am going to take up some of Mr McLean's and Mr Stockwell's time. What brought you to Canada? I know you were working for the Canadian International Development Agency. What prompted you to emigrate to Canada?

Mr Puta-Chekwe: I was brought to Canada because I found it increasingly difficult to practise law in my native country.

The Chair: Can you expand on that a little bit.

Mr Puta-Chekwe: Yes, certainly. In the days when I left we had a one-party state in Zambia. I was running a general law practice. I was a human rights lawyer. I defended a lot of people in prison without trial. I myself was subsequently imprisoned without trial. In those circumstances it became very difficult to pursue a law career or any kind of career in an honest fashion.

The Chair: How long did you have to serve in prison? What time period were you in?

Mr Puta-Chekwe: Three years.

The Chair: What was the charge laid by the government?

Mr Puta-Chekwe: As I mentioned in my introductory remarks, I was imprisoned without trial.

The Chair: Without trial?

Mr Puta-Chekwe: Also without a charge.

The Chair: When you left the country and emigrated to Canada, was it a process of simply leaving the country, or was there difficulty leaving the country, or how did you go about that?

Mr Puta-Chekwe: Actually when I left Zambia, in the first instance, I was not allowed to travel, so I had to wait for about a year. I then left and went to England, where I worked as legal counsel of a small international bank. They moved their African head office back to Lusaka in Zambia, so I was in Zambia for another year, and during this time we had applied to emigrate to Canada and our papers came through and we left.

The Chair: When you were a resident of Zambia, did you have any political affiliation, any political involvement at all?

Mr Puta-Chekwe: Not in any formal sense, but as a human rights lawyer it was very difficult not to attract certain political labels from the ruling party.

The Chair: But you were not personally involved in any movement to democratize the country or to change the political climate at all.

Mr Puta-Chekwe: Only incidentally through my work.

The Chair: I see. So you were never associated with any movement that could be described as political in nature.

Mr Puta-Chekwe: No.

The Chair: How did you come to be made aware of this opportunity on the Criminal Injuries Compensation Board?

Mr Puta-Chekwe: I knew that boards of this nature existed and I was anxious to keep in touch with the law, since I could not practise under Ontario's regulations. I therefore phoned the Ministry of the Attorney General and it sent me a list of boards available. I wrote back and indicated two or three boards, I think, that I was interested in, and this was one of them.

The Chair: So then you simply submitted an application indicating your interest.

Mr Puta-Chekwe: Yes, I submitted an application.

Mr Waters: Is there any one thing in your past working life and background that you feel would set you in good stead for this position, and if not, do you feel it is your general life experience, working experience, and if so, could you elaborate on it?

Mr Puta-Chekwe: I think my general life experience tends towards this position, but also in a law practice you write opinions not just directly for your clients but also for other legal firms, especially if you are attached to a prominent law firm. I have expressed opinions on criminal injuries. I have pursued civil litigation arising from criminal injuries. I feel I am acquainted with that line of work.

Mr Waters: It is a most impressive résumé that you have. I have no other questions.

Mrs Haslam: I am aware of people who are on criminal injuries and I would like to ask a question. Perhaps Mr Pond, the research officer, could clarify this, because it was not in the overview. It said that "periodic awards can be made up to $1,000 in monthly instalments." My question is, are those indexed?

Mr Pond: Against inflation? No.

Mrs Haslam: No, they are not. So once an award has been made, if it was $500, if it was $800, if it was $1,000, if it was five years ago, three years ago, two years ago, that is all they receive.

Mr Pond: Yes.

Mrs Haslam: Okay. I was wondering if you would comment on that, because I know of a particular situation where they received X amount of dollars. It is their only source of income. The rent on the apartment went up the food costs went up, and that is the only money they have coming in. I wonder if you would comment on the idea of an increase. Apparently the last time the board's payment scale was increased was in 1986. Do you have an opinion on that?

Mr Puta-Chekwe: Yes, certainly, I do have an opinion. 1986 is five years ago, so there is a case for increasing the basic amount. Second, there is also a case for indexing the monthly payments. But as I said, I think in answer to Mr Elston's question, as a member of the board, one can only bring this to the attention of the public in one's rulings and leave the lobbying to appropriate authorities.

Mrs Haslam: That was the only question I really had. I think the curriculum vitae was extremely well put forward and I have no questions as to ability or experience. It was just that clarification I wanted to have answered.

Mr Hayes: On your résumé it says you litigated a number of human rights cases, some of which became landmark decisions. I just wonder if you would mind elaborating on one of those to give us an idea of what one of these landmarks may be.

Mr Puta-Chekwe: Yes. It is a term that students of constitutional law like to use, but we had one case in particular where a former governor of the Bank of Zambia had been in prison without trial. He was given grounds of detention as required by emergency regulations which purported to authorize that imprisonment. I challenged this and said, "Look, you not only have to give grounds of detention, but the grounds of detention have to be clear, limited in terms of duration, in terms of the allegation, and you must afford the detained person an opportunity to make an intelligent response to them."

Prior to that, if you gave grounds of detention and they seemed to have some consistency, however vague they were, the detention would be upheld. On this occasion, we managed to persuade the High Court that saying something like, "Between 1 January and 31 December of that year you engaged in activities prejudicial to state security," making a statement like that, did not qualify as a clear enough statement to constitute lawful and constitutional

grounds of detention. That is an example of one decision that changed the way of thinking in the judiciary.

Mr Hayes: Very good.

Mr Frankford: Do you have any idea what proportion of justifiable or claimable cases come to the board?

Mr Puta-Chekwe: No, I do not have a clear percentage of what you call justifiable claims, but I get the impression that the majority of cases that do come up are successful.

Mr Frankford: Do you think there are a large number of cases where people just do not know of the existence of the board?

Mr Puta-Chekwe: I think so, yes. I really think there are a large number of cases that could come across if people knew about the existence of the board.

1040

Mr Frankford: But at this stage you really do not have any good idea of where that would be?

Mr Puta-Chekwe: No, at this stage, I do not.

Mr Frankford: Would you want to initiate some studies?

Mr Puta-Chekwe: The standard answer to anybody who wishes to initiate a study these days is that there are no resources. If there were resources, certainly it would be something worth while doing because it would serve an interest in society.

Mr Grandmaître: Mr Chair, my question is really directed to you or to the clerk. How many vacancies are there on the board? Second, how many people apply to fill these vacancies?

The Chair: I suspect that neither of us can answer that question. We can pursue it on your behalf. We can certainly make inquiries and get answers for you for next week, if not sooner.

Thank you, sir, for appearing before the committee this morning. Someone from either the clerk's office or the appointments secretariat will be advising you of the committee's decision next week.

CATHERINE ANNE TREBINSKIE

The Chair: Next is Catherine Anne Trebinskie, an intended appointee as a member of the Algonquin Forestry Authority. I hope you are not offended if the Chair takes off his jacket. It is getting a little close in here.

Mrs Trebinskie: I am not offended.

Mrs Haslam: I would be.

The Chair: I do not care.

The Chair: Welcome to the committee, Mrs Trebinskie. Would you like to say anything before we get into questioning?

Mrs Trebinskie: No, thank you.

The Chair: Again, you are a selection of the official opposition. We will begin questioning with Mr Grandmaître.

Mr Grandmaître: I only have a few questions. Could you describe yourself and tell us why you are the ideal candidate to sit on this board?

Mrs Trebinskie: I hope I am an ideal candidate to sit on this board. I am the mother of four young children. I come from a family with a history in the logging industry. I am the daughter of a farmer, who made his living on farm land and bush. I live in a one-industry community. We solely survive on logging. I have a direct interest. My husband is a logging contractor. He works on crown land outside of Algonquin Park and on private land. He owns logging equipment. I have two very young children who insist that they are going to have a future in the forest, and if that is their choice I would like to be responsible for making sure they have a future in the forest.

Mr Grandmaître: How did you find out about the opening on this board?

Mrs Trebinskie: I found out several ways. I found out through the association of which I am president, the Forest Industry Survival Association. I found out publicly from some local people. I also found out through the local ministry that there would be positions on the board of directors of the AFA.

Mr Grandmaître: Did you apply or did you get a phone call to apply?

Mrs Trebinskie: I was asked by several people to apply. I considered and I then decided to apply.

Mr Grandmaître: Several people in the industry or what?

Mrs Trebinskie: In the industry and my community.

Mr Elston: I notice that your husband is involved in logging adjacent to Algonquin Park, although not inside Algonquin Park. Do you see any chance, as a result, of there being a conflict in your duties in administering the crown timber in the forest with respect to your husband's practice outside?

Mrs Trebinskie: No, I do not. My husband has applied for several years to work under the Algonquin Forestry Authority. He is a small, individual logger. The authority seems to accommodate larger, established contractors. I do not see it being a conflict at all.

Mr Elston: Even if the situation was that the award of a contract in the forest would have a direct effect on your own business by volume or reduced volume of contracts available?

Mrs Trebinskie: I do not quite understand your question.

Mr Elston: If you allocated a lot more timber to people inside the forest, is it possible that may affect the nature of the success of your husband's operation? Or if you reduced the amount of timber allocated out of Algonquin, would those people with smaller volumes be the direct competitors of your husband?

Mrs Trebinskie: I really cannot make a comment. I am really not sure. I do not see it as being a conflict or as being a problem.

Mr Elston: Is your husband is an independent logger in the sense that he goes from one job to another and markets directly to a sawmill or—

Mrs Trebinskie: He does that very seldom. Usually he works under a larger contractor. He is sort of considered a subcontractor. He has very little direct connection with marketing.

Mr Elston: So he basically goes out and helps with a contract that has already been issued.

Mrs Trebinskie: He goes out and harvests the timber.

Mr Elston: What is your view with respect to parks and the extraction of raw materials from parks, including, obviously, timber in this case? Do you see a conflict with respect to the operation of parks?

Mrs Trebinskie: In my view, and it is only my view, no, I do not see a conflict.

Mr Elston: But it would become one view on the authority.

Mrs Trebinskie: It will become one view on the authority. I feel, in all due respect, if things are done properly and well managed, there is no problem with extracting timber from parks.

Mr Elston: So you are looking, really, at applying a balance in relation to resources in Algonquin? Is that fair to say?

Mrs Trebinskie: Pardon me?

Mr Elston: You are looking to establish a balance between use of the park—

Mrs Trebinskie: Yes.

Mr Elston: Do you have any rules of thumb you might use to develop that balance?

Mrs Trebinskie: The only thing that comes to mind is public awareness and the openness to have the public more involved, especially in the management of timber so that they have a say in what is going on and are well aware of what is going on.

Mr Elston: Would you feel yourself to be an advocate for the logging industry?

Mrs Trebinskie: Yes.

Mr Elston: Do you think that might pose a problem with respect to your relationship to other people on the authority?

Mrs Trebinskie: No. I think it would benefit the authority to have people who are concerned about the industry.

Mr Elston: You grew up on a farm in Renfrew?

Mrs Trebinskie: In Round Lake in Renfrew county.

Mr Elston: Your husband, I take it, has been involved in logging for some years, his family as well, presumably.

Mrs Trebinskie: It is the third generation of logging in both of our families.

Mr Elston: I presume your farm operation when you were a child also made use of the woodlots that were around. I presume there probably were some.

Mrs Trebinskie: No, we only dealt with our own private bush.

Mr Elston: I was just trying to find how your experience or knowledge of harvest and regeneration would assist you in striking the balance. That has to be critical for this authority, and I am just trying to figure out if you followed the practice, if you know what I mean.

Mrs Trebinskie: On harvest and regeneration, the only comment I have is that I have great insight on well-managed private land versus crown land and so forth. My father owns a quite large farm with a very well managed bush. A lot of the people around my homestead own farm land with well-managed bush.

Mr Elston: Would you describe yourself as a commonsense type of individual?

Mrs Trebinskie: I would hope to describe myself as that.

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Mr Elston: Well, do not hope. You do it, I guess, is the way.

Mrs Trebinskie: Yes, I would.

Mr Elston: You really are striving for the balance that will give your children and the folks whom you know, anyway, a chance for continued economic activity and a lifestyle which is well-established in your part of Renfrew county, a chance to survive and expand, if possible. Is that a fair assessment?

Mrs Trebinskie: I look at it as giving my children and my grandchildren a future.

Mr Elston: Good answer.

Mr Stockwell: Do you have any political affiliation?

Mrs Trebinskie: No, I do not.

Mr Stockwell: Did you work in the last election?

Mrs Trebinskie: No, I did not.

Mr Stockwell: You have not made any contributions to anyone?

Mrs Trebinskie: No, I have not.

Mr Stockwell: Who approached you for the job?

Mrs Trebinskie: As I said, members of the community approached me.

Mr Stockwell: Anybody in government?

Mrs Trebinskie: Yes.

Mr Stockwell: Who?

Mrs Trebinskie: When they approached me for the job they questioned me. I had spoken to Marty Donkervoort, a policy adviser to the Minister of National Resources.

Mr Stockwell: I see. How do you think he would have known about you? I am curious.

Mrs Trebinskie: How would he have known of my existence?

Mr Stockwell: Yes.

Mrs Trebinskie: Through my work with the Forest Industry Survival Association.

Mr Stockwell: I see. Can you explain that industry to me a little bit.

Mrs Trebinskie: That association?

Mr Stockwell: Yes, I am sorry. That association. I am a little unclear about its role.

Mrs Trebinskie: We formed that association in the fall of last year, as I mentioned earlier. I come from an area that is a one-industry town, which is logging and sawmilling. Right now about 75% to 80% of our people are laid off and unemployed and very close to the welfare list. A lot of us experienced the chance of losing our homes and everything over what was going on in the forest industry, and we felt it was time to group together as a community and fight for survival.

Mr Stockwell: Do you think this appointment would be an extension or an outgrowth of this association that you are part of or that you formed? Is there any way at all that you think it will benefit or else carry forward the message that you hoped to carry forward upon—

Mrs Trebinskie: Definitely.

Mr Stockwell: How will that be?

Mrs Trebinskie: It is a voice for the people who are directly involved in the industry. It is a voice to represent those people. Those people have had questions and concerns for years and they have never gone anywhere, they have never been heard. There was a comment made to me earlier in the fall when I met with the minister that people throw up their hands and feel they cannot fight Queen's Park, and I am really glad to see the approach you have taken and that you are willing to make your stand and hold with it. I feel, by being part of the board of directors of the AFA, that it is also a great stand for our community and for our future.

Mr Stockwell: So this will give your community an opportunity for input and discussion that maybe you would not have had otherwise.

Mrs Trebinskie: Yes, I feel that very strongly.

Mr Stockwell: Maybe too much of the ear of the government was taken up by people in Toronto or whatever.

Mrs Trebinskie: People who possibly did not have a direct knowledge of both sides, and I feel I do have a knowledge.

Mr Stockwell: I am sure you do.

Mr Wiseman: I would like to begin with a number of concerns. Where exactly does your husband's logging company extract logs now? Can you give me a geographic area?

Mrs Trebinskie: The Barry's Bay area, usually, in around—do you want townships, or is that—

Mr Wiseman: Yes, please.

Mrs Trebinskie: Mostly Hagarty, Richards, Sherwood, Jones and Burns. He has done some work up in the Whitney area, but I do not know the individual townships.

Mr Wiseman: That is northwest of the park, then.

Mr Waters: That is almost due west.

Mr Wiseman: Due west. Okay. I would like to talk a little bit about the method of extraction of logs. Could you describe for me the rules around the extraction of logs as they would apply in the park?

Mrs Trebinskie: In the park? Are you talking about the selective harvesting?

Mr Wiseman: Yes. I would like you to describe that.

Mrs Trebinskie: As I see it now, in my view, I see our ministry taking out our future trees, our future growth, taking away our security. I do not see us preserving for the future. I agree with the selective cut in certain areas. I would go as far as to say that I think if we combined a selective cut with a diameter cut, we would have a very unique system.

Mr Wiseman: What is a diameter cut?

Mrs Trebinskie: A diameter cut is what was used several years ago where a certain diameter of tree was measured and those were the trees you took out. At that time, when they strictly used diameter, they never took out what you would call your damaged trees, which presented a big problem.

What we are suggesting is that if you combine your diameter with your selective and selectively cut your bad trees and so forth, but do not cut out all your future trees—if you are cutting out a tree with a six-inch stump and leaving a tree with a 20-inch stump and not coming back to that tree for, say, 20 to 40 years, by the time you come back your chances of rot, your chances of insect damage, your chances of blow down are very high on that tree you have left, and you have taken out your little, small, future tree. So if by nature's will that other tree goes, what is left of your security? Absolutely nothing. I strongly feel we should be looking at another view on how we are harvesting our timber.

Mr Wiseman: I just have a couple of more questions. I am a little concerned because where I drive up to my cottage, they are doing some cutting along the road.

Mr Elston: So when are you inviting us?

Mr Wiseman: Are you kidding? When I go up there I want to get away from the office.

The question evolves out of the cutting that is going on along this road. I am really quite concerned because these big machines go in there and they rip up the road and there is a wide swath. As they cut, they only take the best parts of the tree and they leave a lot of scrap behind. I would like your comments on that kind of cutting because it is almost clear-cut, leaving a lot of bush and mess behind.

Mrs Trebinskie: I thoroughly disagree with any clear-cut. I think it is a very bad sin of the past and I am very much against it. I really disagree.

As far as leaving the stuff behind is concerned, I agree with you and I think it is a disgrace, but I think the blame has been put on the wrong person for several years and maybe it is time our government and our public understand who is really to blame. Take a look at our sawmills and at what they are utilizing. Instead of being so harsh on the logger and the contractor—it is not their decision what they take out of that bush. They are made to cut it. If the mill does not want it, they cannot load it on the back of their truck and take it home. It is left there.

Mr Wiseman: Then you are making mills probably the worst—

Mrs Trebinskie: I think the mills really have to make some changes. I think it is crucial that we have to find

markets for this low-end material. We have an overabundance of it and we need local markets that will utilize it.

Mr Wiseman: My last question is a quote. It says: "An authority employee is present on each contractor job site. His or her responsibilities include quality control and the enforcement of authority cutting regulations. The employee ensures that only the marked trees are cut and that the minimum damage is done to the trees left standing." Is that your job? Is that what you would be doing?

Mrs Trebinskie: No.

Mr Wiseman: What would you be doing?

Mrs Trebinskie: I would be sitting on the board of directors. We would meet, I believe it says, six times a year and we would discuss policies and so forth. That is a bush foreman. I am definitely not applying for a bush foreman's job.

Mr Wiseman: Would they be responsible to you in the long run for what is going on?

Mrs Trebinskie: They would be responsible to the board.

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Mrs Haslam: I must be very open and say I had some trepidation about your going on the board with your direct connection to logging. However, your answers have really changed my mind and impressed me. I want to go to one quick question. You talked about more public awareness and I wonder if you could elaborate on that, how you see more public input or more public awareness. That was the comment you made.

Mrs Trebinskie: I would like to make it a point to bring it up to the board, either through meetings or perhaps through a little newsletter or something, that the public should be more involved with the process and with the policies and so forth. Presently, we know there is an Algonquin Forestry Authority that manages the timber in Algonquin Park. If you call them up and ask them to take you in to show you timber management in the park, they will do so. Basically that is what we know publicly about the Algonquin Forestry Authority. I feel there should be a lot more public awareness about what they are doing and why they are doing it. Also, it would give the public a chance to comment back to them if the public agrees with what they are doing. The timber is not the government's to own. It really is the property of every person in Ontario. I feel that once in a while we should have a chance to comment on how our resource is being managed.

Mr Waters: This is more out of curiosity. I know the Algonquin Forestry Authority covers more than just the Barry's Bay area. Mr Wiseman said it was the west, but it is not; it is the east side that you represent.

Mrs Trebinskie: The east side of the park.

Mr Waters: I know they are in the Huntsville area. They have an office there.

Mrs Trebinskie: Yes.

Mr Waters: Where does the authority cover and are the representatives geographic representatives from different areas around there or did they just—

Mrs Trebinskie: No, they are geographic. They are from different areas. There is a lady from Petawawa, which is northeast. They are geographic areas. There is representation from different areas. I do believe there is representation from Huntsville and that end also.

Mr Waters: Okay. On the question of the cutting, do you find that a lot of people's perceptions on forestry that we hear of in the news are accurate? In other words, do you feel logging is being painted as not necessarily a good industry where in reality it is? How do you feel it fits?

Mrs Trebinskie: I feel logging is a good industry. It is a very valuable industry. What is our main natural resource in Canada? I feel there is just cause by a lot of the groups that are questioning logging in and around the park. I myself, as a person who has an interest in my husband's position in logging, question it. He himself has come home several nights very annoyed with what he has been issued to do. He has come home so upset, that has been at the point, "There's no future in it for me or for my boys if I continue to do the damage I'm doing." That is really what fired me up. If loggers can recognize that, then it is time they start standing up and it is time they stop getting pinned as being the destructors, when in all reality they are the ones who are very concerned and who want to preserve. You take your home. It is your pride and joy. Your car is your pride and joy. Well, that forest is their pride and joy because that is their tomorrow and that is their children's tomorrow also.

Mr Elston: I have just a couple of questions. I notice from our notes that another colleague of yours from the association, Ish Theilheimer, is also a member of the authority. Do you think that may compromise the authority and change it into a part of or an extension of the Forest Industry Survival Association?

Mrs Trebinskie: I very much doubt it. I understand there are 12 seats on the board and I do not think we are that powerful.

Mr Elston: Mr Theilheimer is an active partisan, is he not?

Mrs Trebinskie: Pardon me?

Mr Elston: He is a member of a political party.

Mrs Trebinskie: I really do not feel I should have to answer for Mr Theilheimer.

Mr Elston: I think he is a former New Democratic candidate, is he not? Did he not run in the last election?

Mrs Trebinskie: I really do not feel I should have to comment for Mr Theilheimer. I am not Mr Theilheimer.

Mr Elston: No. I was just interested to see that you and he would be there together.

The issue for me, though, is that he has written some very interesting materials that would appear to compromise or at least set an agenda, at least by members of the Forest Industry Survival Association, and I wonder if you have any sense that you are going to be promoting the association's work as a member of the authority.

Mrs Trebinskie: No, I do not think we will be promoting the association's work. Mostly the work with the association has to do outside of Algonquin Park.

Mr Elston: Did Mr Theilheimer approach you to become a member of this authority? Did he speak to you about it?

Mrs Trebinskie: We spoke about it, but I had been approached before he was aware.

Mr Elston: Just one final question: Mr Stockwell said that he would ask my question, but I can maybe ask it directly rather than through him. Can you tell me what your view is with respect to the indication of the Minister of Natural Resources that he is going to expand the natural reserves and also is approaching the development of Algonquin Park from the point of making sure there is more and better fish and wildlife habitat as opposed to extraction of timber? Can you comment on what conflict that may lead you into with the minister or his policy person?

Mrs Trebinskie: I am not really aware of where he is going on issues like that. I fully support wildlife and fisheries and so forth in the park and I think there has to be a compromise.

The Chair: That is it, Mr Elston. I am sorry, but that is the way this committee works, on a very tight time frame.

Mr Elston: There are very good questions still to come. Maybe Mr Stockwell would like to ask a few more.

The Chair: I appreciate that, but I cannot get into that situation. One of my responsibilities is to try and keep track of time. If we start exchanging times like that, it would be a virtually impossible task.

Mrs Trebinskie, thanks very much for appearing before the committee. We appreciate it.

RICHARD JOHNSTON

The Chair: Our next intended appointee, again selected by the official opposition is—I am not sure I can pronounce this name—Richard Johnston. Mr Johnston is the intended appointee as the chair of the Ontario Council of Regents for Colleges of Applied Arts and Technology. Welcome to the committee.

Mr Johnston: Nice to be in this seat.

The Chair: I appreciate your appearance here this morning. Would you like to make a few brief comments before we open the questioning?

Mr Johnston: Not in particular. I think it probably makes more sense for members to ask me questions. They know me and so it is probably more a matter of them raising their concerns with me.

The Chair: Okay, fine. We will begin the questioning with Mr Elston.

Mr Elston: Richard, A pleasure to see you here. I cannot help but ask the first question, which is, have you any political affiliation?

Mr Johnston: There is some vague connection between myself and the NDP, but if you talk to certain members of the party they would question it as much as you probably would. Yes, of course I do.

Mr Elston: So you would cast yourself as an independent appointment from the administration.

Mr Johnston: An absolutely independent appointment.

Mr Elston: I remember your having made a speech or two in the House. Do you have any concerns that you may be receiving a salary from the province at the same time as you are taking pension? Have you made any arrangements not to take your pension while you are in this place?

Mr Johnston: I have asked for some advice about how not to take it and it is not very easy to avoid receiving it, unfortunately. I am hoping the government will pursue its intention that it has stated publicly to remove the double-dipping as soon as possible, but at this stage there is virtually nothing you can do to stop the cheque flow. You cannot sort of write a letter and say, "Don't send it." Apparently that is not an option, so my hope is that in the very near future the legislative changes required will be made, because as you rightfully say, I have never accepted the notion that we should double-dip.

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Mr Elston: For instance, I suspect you could say to the people who pay you under this job that you would remit the balance of the salary that would account for your pensionable time as well. Had you thought of that as an option?

Mr Johnston: I would consider that practically, but to be honest I do not know what the job pays, so I am not sure what the difference would be.

Mr Elston: I think it is more than you used to make as a member.

Mr Johnston: Is it? I am pleased then. Actually, I would look at that, Murray, in the interim, but my real hope would be that within the next few months the government will move on this and put a number of us ex-politicians out of the invidious position of having to accept this money. As you know, the overall impact on pension plans for trying to do something generally on this is difficult and maybe that is what is causing the delays. I am really not sure.

Mr Elston: Richard, just to get back to some of the substantive stuff, I noticed in your credits here that you have a long-standing role in peace activism. Do you think that will be one of the primary attributes you will have in your job?

Mr Johnston: No. My role in the Bill 30 hearings, being in Mr Runciman's seat during that period, might perhaps be of more use in terms of some of the battles that are forthcoming than my peace activism. But I do think, just to be momentarily serious, that my role as a critic for three years in this area and my role as a member of the standing committee on social development for 11 years sets me in pretty good stead for an overview of the college system.

As I was saying to the Chair before I was called up, before the meeting started, I did not want an appointment for the sake of an appointment, frankly. As you know, I planned to leave politics and it is only the surprise of an NDP government victory that has put me in the position of wanting to be of some assistance, in general terms. As you know, I am a bit of a reformer. If I did not think there was a lot to be done in the college system, that it needed reform

and that I could play a role in that, I would not accept to be presented to you for nomination today.

Mr Elston: Actually, I was being quite serious about your role, because I recognize the issues which are going to confront you. Do you believe—your experience is one thing; your connection with the administration is the other—that you will have sufficient latitude to deal with what I believe is a time when there must be some things undertaken? That was why I used your one CV entry as an entry into the discussion and the topics that are at hand.

Mr Johnston: As you know, as well as being partisan, which I have been, I have also been a fairly independent player. I have met already, since the election, with the heads of the colleges on several occasions and during that period have advised them to get themselves more politically active, both in terms of working with the government and in working with the opposition, than they used to be, in terms of meeting their goals. I do not think I have any difficulty in being useful to them, of assistance with ginger as well as with advice to the minister. I would see it as a double-edged kind of approach that the chair has to take.

Mr Grandmaître: Richard, knowing your great knowledge of education in Ontario—I have seen you in action for five and a half years and I am not doubting for a minute your sincerity—you will be asked to advise the ministry or the minister, from time to time, about the colleges and universities in this province. Could you give me your thoughts on the possible expansion of the number of colleges in the province?

Mr Johnston: As you probably know, I play a fairly large role in trying to push for more French colleges, and am still of the belief that as soon as it is practical, we should be trying to develop the southwestern francophone college, as well as the northern college. I hope that my limited abilities in French will assist actually with changing the face of both the Council of Regents and the presidents in terms of the bilingualism that we now would expect.

Rather than further expansion, outside of the francophone colleges, there is a real need now for a serious look at the quality of education in the college system, looking very strongly at standards for various kinds of programs so that we can have some system-wide standards established. That might become the basis for such things as equivalencies for programs when people are trying to enter university, which is one of the great problems at the moment for people who are in the college system. I think there are internal matters that are in dire need of being addressed.

Governance is another issue, as well as these questions of standards and program, that I would want to put my head to before I would be anxious to see a holus-bolus kind of expansion of the college system at this stage.

M. Grandmaître : Je voudrais simplement te remercier des années que j'ai passées avec toi en Chambre et de l'appui que tu as toujours donné à la communauté francophone. Alors, merci et bonne chance dans le futur.

M. Johnston : Merci, Bernard. J'ai grand espoir d'aider la communauté francophone dans ses espoirs d'avoir une vraie éducation totale avec les quelques collèges, et peut-être un jour pas si éloigné, une université française.

Mr Stockwell: Since you left the political field, I see you have had a few appointments to certain committees and boards by the government. What is this "political consultant, commentator, lecturer"? Is that a job?

Mr Johnston: That is a good question. It is a strange life after politics, Chris. Immediately following the election, a large number of people were looking for individuals from the NDP, or from a background with the NDP, who could explain what this new government might be about. So I ended up doing an awful lot of speaking to businesses, some of it through corporations like Public Affairs International, some of it through Susan Murray and other organizations, some of it independently, that kind of framework. That is the consulting talked about.

The commentary things have been an extension of work I did as a member, in terms of requests by CBC, CTV and others for commentary about various matters.

Mr Stockwell: So it was a job, basically.

Mr Johnston: Yes.

Mr Stockwell: And you were paid. You were successful.

Mr Johnston: I have not been called lately by the networks, so I am not sure how successful I was.

Mr Wiseman: I see by your CV that you are very much interested in the Vision 2000 statement and the lack of adequate links between schools and universities. I wonder if you could elaborate on how you might see yourself as proceeding to forge these links and to expand them.

Mr Johnston: One of the important things to understand is that as chair of council, although you have administrative responsibilities in terms of the office, you are also chairing a group of individuals, and it is a more a matter of trying to bring the group around to dealing with certain kinds of issues. Again, they are primarily advisory. Their powers, if you want to look at their strength or powers, are really in terms of appointments to individual colleges. That is where they have some oomph and control. But other than that, it is an advisory capacity.

I think it is a matter of taking some of the things that came out of Vision 2000, setting some priorities around those in co-operation with the presidents and the boards of governors of the various institutions, and trying to work through some of those matters. I have raised a couple of them already, like standards within the college system.

On the question of access, the college system has been far better, in my view, than the university system has been in taking people whose qualifications are maybe not specifically correct in terms of academics, but giving them the kind of upgrading they require and then incorporating them quickly into the mainstream and giving those people the kind of re-entry into education that I think all of us would want to see.

I hope the college system will expand its efforts in that area. You remember that when it was first formed it was hoped it would pick up a lot of the general-level students in the old streamed system from the 1960s. In point of fact, if you look at who is going to the college system, more and

more it is the people with the OAC level of education coming out of the high school system, and not so much the general-level student any more. I think it is time that is looked at in a fairly serious way.

The linkages with the high school system are even more complicated. Clearly there has to be a greater linkage between the technical training at the high school system and what people can expect to enter as they move into the college system, and a greater interaction between the two levels of education for those kinds of students. At the same time as that, there is a self-evident kind of thing that developed. We have in fact had a dropoff in the number of technical students at the secondary level and so the linkages have become a little more difficult to maintain than one would want them to be. There are a number of very major challenges that exist now, including, one might argue, the viability of certain of the colleges to be able to maintain themselves.

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Mr Wiseman: What is the relationship between your group, which is the Council of Regents, and the Association of Colleges of Applied Arts and Technology of Ontario?

Mr Johnston: They are two different groups. One represents the administration, if you want to put it that way, or the college system, and we are an advisory group to the minister but with linkages to the college system. As you know, for years there has been this strange anomaly right from the beginning that the negotiating with the college faculty and staff was done by the Council of Regents, even though it was not the management and it was not the crown. The government is now in the process of changing that. The present negotiations under way at this time will be the last where the Council of Regents has responsibility, and I think that is a good thing. There have been some confusing roles.

Increasingly, though, this group will be advisory and policy, trying to set direction and advise the minister in terms of larger policy goals for the system and then working with the presidents through that association to work in some of the nitty-gritty. I would have to say that the work that has been done over the last number of the years, with Mr Pascal and most recently with Mr Turk as an interim chair, has really forged some good links with that organization, and they are now working hand in glove in terms of trying to meet some of these major challenges that exist.

Mr Wiseman: Have you ever met Chris Trump?

Mr Johnston: Yes, several times. He in fact was the one who invited me to come and talk to the members after the election. I have had a number of conversations with him. In fact, the issue of standardization did not begin with me, but a discussion we had was certainly a catalyst, when he was sitting in this chair and I was in the opposition raising questions about the standards for early childhood educators in the college system and how diverse they seemed to be in terms of programs across the system, yet the best of them seemed to be better qualified to teach our kids in the primary section of our school system than people coming out of the faculties and they could not get any credit to go into the faculties.

That is the first time I actually met Chris and raised that issue with him. He took it back to the community colleges and I think was one of the people responsible for getting the Visions 2000 documents and starting to raise this question of what are the standards and how can we expect Georgian College and Algonquin and Centennial all to have the same kind of product coming out of their system, which we do not have at the moment, and without that we can never talk about equivalencies for people to go on to universities.

Mr Wiseman: One of the interesting features of Durham College in Durham, where I am from, is that they really promote co-op. They have made some inroads into co-operation, with the local businesses, the community colleges and universities, as sort of a way of creating partnerships. I am just wondering if you see that as something that maybe all the colleges might want to get into. Also, there is a movement with the Durham Region Manufacturers' Association to what are called centres of excellence. Do you have any comments on this trend?

Mr Johnston: Durham College has actually been an innovator in the field, but many of the colleges are now pursuing those kinds of programs. I was teaching a course for Trent which worked out of Durham College, so they have an excellent relationship with Ryerson, York and Trent, all using the college for university-level courses. Their work with the manufacturing organization to try to develop centres of excellence is something I am not as familiar with as I will become if I am confirmed in the appointment.

I think one of the strengths of the college system has been the strong linkages with the business community over the years. It was a good conceptual kind of thing to start off with, and it has been well maintained.

It has had some other weaknesses, in my view, in terms of a lack of representativeness on the boards of the community at large. It has been fairly good for the local business but not for the nature of the community. One of the principal challenges of the system is to become much more representative in terms of its governance.

Mr Hayes: Richard, I am thinking back to when I sat on county council and I attended a meeting with the mayors and, as a matter of fact, the Premier at that time, and top people in the corporations and labour all went to Kitchener for this meeting. It was to discuss new technology and to discuss the need for skilled trades in this province. Of course, I have not see any improvement since that time, and I believe that was back in 1976 or 1975.

One of the things that happens, I think we all know, is that whenever we happen to get a building boom or if business picks up and we get industry into an area, we always seem to be in a position where we have to actually go to other countries to get the skilled tradespeople, the journeypersons. Can you maybe just help us out a little bit and give us your opinion on what should be done to bring labour, management and governments together with colleges and universities to address this issue and to see if we cannot come up with a program to meet the needs of this province as far as skilled trades are concerned?

Mr Johnston: I think you have put your finger on an enormous problem that any of us who have been around this place for a number of years could readily identify with. That is a continuing issue that arises. Why is it that we keep importing skilled labour and do not produce it as well as we might or as sufficiently as we might here at home? I personally believe one of the real problems has been a lack of co-ordination between the federal and provincial governments around job training strategy. I do not know whether with a new federal plan that is going to be better or worse. My reading of it at this stage is very unclear. But as chairman of the advisory council provincially, it would be my responsibility to start to make some linkages with our federal people to see if there are not ways we can start to co-ordinate training programs a lot more successfully than we have.

I do not know what you think but I have also felt that our tradition of antagonism, our confrontation, between management and labour has caused problems in trying to work out these kinds of co-operative deals in a meaningful way. Questions of apprenticeship are always vexed questions because from the union's perspective it is often seen as a threat in terms of a reduction or watering down in some cases of the value of a particular apprenticeship if we move into a major expansion of that. I think we have run into a lot of problems because of that kind of confrontational attitude.

My sense is that most of us understand that the restructuring taking place in this province now is so major and so extreme that if we do not start to co-operate much more, whether it is government or labour or business, in terms of coming together and working out strategies that make sense in a co-ordinated way, we are going to fall way behind and the present economic difficulties we have are going to be nothing to what we will face in the future. My hope is that we will start to develop those linkages and I would like to play a role in trying to do that.

1130

Mr Elston: Do you see yourself as working for the province or the colleges? How would describe yourself?

Mr Johnston: I think it is mildly schizophrenic, and that is probably another reason why I am appropriate for the job, never having been clear about whom I was serving in the past. I think the primary job is advice to the minister. However, I think it would be wrong for the council to place itself between the college system and the minister in a funny kind of way. It has to try to make itself represent the college system as much as is possible as well. If you look at the bulk of the membership on the council to date, they have been people who have had experience at the local board level. They are coming with that kind of connection to the colleges. I think that is really vital if there is going to be credibility both ways.

If you look at difficulties there have been in the system over the years, it has always been at times when there was a major gap between what the council was talking about and what the colleges were talking about, and therefore two very different lines of communication were going forward to the minister. So I would see that you actually have to play it both ways, Murray. It is not necessarily the most comfortable role to be in at times.

Mr Elston: I think you have put your finger on a problem, which is of course the negotiations you are in now. The issue for me is how are you perceived to be representing the colleges if you are also taking the message back about settling the monetary disputes.

I suspect now that the biggest problems that are associated with settling matters in the colleges are going to be working conditions and a whole series of other items. Do you think you can be seen to be separate enough from the administration to have credibility when you have to deal with very difficult issues? My peace activist question was a little bit funny perhaps, but that is why I wanted to get back to you and ask you about that role.

Mr Johnston: The chair has always been in that strange position, and I think the council has managed over the years to be seen to be at arm's length from the government. I think of some of the big strikes we have had over the last period of time. It was clear who was doing the negotiating. It was the council, not the government, and it was not doing it on behalf of the government. They were sometimes stuck with the funding problems—right?—that limit their ability to negotiate.

What Mr Turk has done in the interim is actually to bring in one of the past college presidents to chair a committee of presidents to do the negotiating. The ultimate responsibility until the law is changed will stay with the council, but essentially the managers are now going to be given the direct line negotiating responsibility for the first time, and I think that is a very positive step.

Now it may be that things will be so tough that the chair and the council are going to have to come in one last time on this. I hope we can avoid that. My hope is that this committee will set the stage for the new situation between management and labour. But I have no difficulty in thinking of myself as separate from government and doing those negotiations if I am forced into that position, which I would much rather not be in. I have supported for many years the Gandz commission's recommendations, which the government now is moving on over the next number of months.

Mr Elston: This just opens up a whole series of other questions, but I thank the Chair for being kind enough to let me explore those two areas. I wish you well, seriously, because I think you rightly have indicated this is a time when we have really got to put a lot of effort into the community college areas.

I just have to say that I think you have shown a fair degree of independence. You could have been more liberally inclined in some of those areas, but I am quite prepared to say that I look forward to your tenure there.

Mr Johnston: Thank you.

The Chair: Thank you, Richard, for your appearance here this morning, and I am sure we all wish you well in your new responsibilities.

Mr Johnston: I appreciate that.

Mr Elston: That is if we concur.

The Chair: Yes, I am assuming that might be forthcoming.

Mr Johnston: I am most worried about the group over here, frankly.

The Chair: It is touch and go. The whole province is worried.

Interjections.

Mr Elston: I have two proxies for the guys who are not here.

STATUS OF RECOMMENDATIONS

The Chair: Before we adjourn, there are a couple of matters I would like to deal with. Number one, the clerk circulated—and you may want to take more time to consider this, but I think it is relatively straightforward—a request—I think it was from Ms Haslam, was it not?—with respect to finding out what has transpired with respect to recommendations made by this committee on the past agencies, boards and commissions.

The clerk has done some work on this and is making a recommendation, which is essentially the last paragraph of his covering letter recommending that we can request a report being filed with the committee no later than Tuesday 3 September and with the requirements spelled out. I am sorry; I thought the clerk had circulated this.

Does anyone have any difficulty with proceeding with this, so that we will have that status report ready for our sittings later this year? It is pretty straightforward, but I think the clerk requires the committee's approval. We are all in agreement? Okay, fine.

The other thing I would like to suggest, given the tough schedule we have in a couple more sitting weeks, is that we consider dealing today with the appointees we have reviewed. That requires unanimous consent since we are changing the rules, if you will, so I am just looking for unanimous consent to deal with the appointees right now rather than next week. All in agreement?

Agreed to.

REVIEW OF INTENDED APPOINTEES

The Chair: We are going to require separate motions on the three appointees.

We require a motion to endorse the appointment of Mr Puta-Chekwe to the Criminal Injuries Compensation Board. Moved by Mr Waters. All in favour? Opposed?

Motion agreed to.

The Chair: A similar motion for Mrs Trebinskie to the Algonquin Forestry Authority; moved by Mr Waters.

Mr Elston: I have to raise just a bit of a concern. I do not think there is anything that leads me to believe she will automatically fall into some kind of conflict, but her husband operating next door and under contracts to other people, and also her being a member of the association of which there is already one member of sitting on the board, raises just a small issue with me.

I find her to be quite a balanced presenter, but I could not go ahead and vote on the motion without raising that as an issue. I do not know what they do when they provide orientation to the authority or anything, but it must be underscored that sometimes unhappy events occur most accidentally. I found her to be quite reasonable in her responses, but I am not sure that she may have thought long enough about the potential for some difficulty, even though her husband would be described as a jobber or subcontractor to others' licences. That issue alone for me is enough that perhaps we should make sure she is reminded of her responsibility to remove herself from any potential difficulties that may be faced as a result of the issuance of licences or decisions about how the park is to be logged.

Mr Waters: I think what we had before us is a community activist representing the community. I have been over there three or four times over the last few years. In fact, I spend a fair amount of time, off and on, in the area. Their whole industry, their whole life there, is what she said: logging. For the last two years it has been in steady decline. That town is just totally devastated, so I can see some of her frustration. She is looking at her children, who want to be loggers too. In my way of thinking she would bring a good balance, because she wants the industry to carry on but at the same time she wants to have some form of logging so that there is an industry for her children and for the community afterwards. In that particular area I know they are just really hurting, that whole town.

1140

Mr Elston: I have no concerns about how she expressed her desire to maintain the industry. It is quite clear that her membership in the association would at least seem to indicate that. I have not read a lot about the association in its entirety, but she maybe has not spent enough time understanding how quickly and how quite accidentally you can get yourself into problems as a member of a public board, because somebody in your family is directly logging someplace else and because there is a decision to enforce an expansion of the non-loggable areas that Bud is undertaking as part of his plan in Algonquin, of the fact that there are to be fewer roads perhaps built in the park. All of those issues can amount to the appearance, anyway, of those people who log outside the park being given a substantial advantage, because if you have the licence outside the park, obviously there may be a closing down inside.

It is not something I would raise to prevent the candidate from going forward. I really want to raise it as an issue I felt should be highlighted for her, because the most unintentional decision could lead, if her husband were one of the people working and somebody who logged inside the park was not, to a very big, bad local dispute. I raise that only as a concern in the very back of my head and not as something to condemn her, but merely that she be allowed to study how she can make herself free from any accidental problems.

That is my real concern, not her per se, because there is no question that she is looking to the future of the community. But it is just that uneasiness when you have difficult economic times. That whole industry, as you have said, not only in that part of Ontario but right throughout the logging portions of our province, is very much under pressure. I think maybe if there were some way to provide some instruction I would recommend it.

Mr Wiseman: I would like to comment on what Mr Elston has just said. I concur with you. I think you have raised very good points on this and I shared the same trepidation when the presenter was making her presentation. As you have probably gathered from my comments to her, I am very concerned about the way logging is done, but the way she answered the questions was quite refreshing from the point of view of presenting from the point of view of the loggers, in the sense that they are also very concerned about what is happening and the methods and the way logging is being done.

If her position with the Algonquin Forestry Authority has a positive advantage, it might be bring to some higher level of appreciation for her views in terms of that kind of sustainability. I think that is an important consideration as well and I would concur with you in saying she needs to be very aware of the potential of accusations of conflict of interest, if not the reality of conflict of interest. So I would concur in saying that perhaps a note should be sent along as well.

Mr Hayes: I think Mr Elston has brought up a legitimate concern there and we have all looked at that, but I have to agree that she certainly shows a lot of knowledge and interest in the future of the forestry industry, and that is very important.

The other thing is that there does not appear to be any hesitancy in her résumé for her to come and point out to us that her husband is directly involved in the logging operations in that area, so I think she is probably expecting us to raise that issue. As far as the appointment is concerned, we support that, but at the same time I agree that we have to let these people know what they may be faced with and how they might have to tread.

The Chair: We have a motion from Mr Waters with respect to this potential appointee. I point out to members that transcripts of the deliberations with respect to the appointees are provided to them so she and they are all made aware of the discussions that took place surrounding their appointments. All in favour of the motion? Opposed?

Motion agreed to.

Mrs Haslam: Can I ask Mr Stockwell why he did not vote for her?

The Chair: You can ask him after the meeting. I do not think that is an appropriate question at this point. Can we have a motion with respect to Mr Johnston's appointment? It is moved by Mr Hayes.

Mr Stockwell: Mr Johnston appears to be a well-suited candidate for the position, clearly having a life before this appointment. He obviously comes with some baggage, I suppose, that I would suggest makes him less than unbiased when it comes to certain decisions, certain negotiations, and when advising the government. It appears this process we are going through is again a rubber-stamp approach and will have a favourable decision, I am sure, for Mr Johnston as well.

I just want to get on the record, not specifically for this candidate, that it is becoming abundantly clear to me that anybody who ever was an NDP supporter is clearly getting government work and this is—

Mrs Haslam: Like Andy Brandt.

Mr Elston: He supports the government now.

Mr Wiseman: Andy Brandt is taking out a card next week.

Mr Stockwell: This is another example of a party which opposed the process in previous lives and is now fully endorsing it. The suggestion made by members on the other side that Andy Brandt was appointed—there is no doubt there are certain token appointments to camouflage the obvious, and it seems to me that this is a typical statement. Then we have to go through this process, this charade, to again add some credibility to the entire process. I really have some concerns about that. I have some concerns, considering this government in power was so vocally opposed to the system when it was in opposition.

It is really very shameful that this government is absolutely no different than any other government when it comes to partisan political appointments. I think this is probably the clearest indication. Again I want to make it clear that I think Mr Johnston was a valued member of the House, and certainly being from Metropolitan Toronto, I know of him and he is well respected.

I will say this, that there is going to be a problem in the future with this chair and the government and the group that he is supposed to be representing. I think Mr Elston's question was a very intelligent, insightful question, because there is going to come a time when there is going to have to be a decision made by this board and this chairman, and I do not know whether he can forget his past political life and his party affiliation. I think if you are going to set up advisory committees to offer unbiased, reasonably fair advice, you cannot stack them with political baggage.

Mrs Haslam: Talking about typical, it is very typical for Mr Stockwell to get on the record as usual with his biased opinions, but I would like to point out—

Mr Stockwell: Partisan too.

Mrs Haslam: Partisan too, yes, but I would like to point out that with the number of people who have come before us the question has been asked time and time again, and we have appointed more non-political, non-partisan people than ever before and there have been definite people in other parties appointed. I want to get on the record as saying it is not uncommon, as Mr Bradley likes to point out, to have someone appointed to a position who agrees with the direction of the government in power and he would not disagree with our right to do it.

If the life skills, experience and qualifications of a candidate fit the job, then that is what is most important right now. I would just like to point out that there have been a lot of people come before us where the question was asked, usually by the third party and usually by Mr Stockwell, "Are you a member, have you worked, have you donated?" In a majority of those cases, I would estimate 98% of those cases, it has been said: "No, I'm not a member. No, I'm not politically active. No, I've never given any money." I would like to go on record and say that those things should be brought forward too.

Mr Stockwell: Ninety-eight per cent?

Mrs Haslam: Oh, sure.

Mr Stockwell: Okay, let's check that.

Mrs Haslam: Please do.

Mr Elston: I do not think there is any question that Mr Johnston will make a valuable contribution. I have no concern about his remark about independence. I know him to be independent, but I also know him to have some difficulties which can be ascribed to his partisan background and could eventually cause some problems.

I believe there will be some interesting steps to be taken in the community colleges area. They are an important sector for us. The issue is not one so much of real difficulty, but more of perceived difficulty in having a clear channel of interest, as sponsored by people who are at various community colleges, because the chair is seen to be part of the administration. That is the reason I asked the question. I know Richard feels uneasy because of the dichotomy of the job. He called it mildly schizophrenic. I think it is probably an error to describe it in that manner, but there is certainly more than one single employer and one interest here that Richard has to deal with.

My concern is that the validity of the work that has been done by people who have not been active partisans on that council, who have set it up to do some very good work in the last little while, is to be noted. The change now to a person whose credentials are solidly public interest and whose awareness is rated most highly by me and probably by most of the people here in this committee still has to be considered to be slightly compromised by the tie Richard has to the administration.

In the days of really tough going, people might very well sort of step out of line and say, "Well, there's no point going through that council, because of course it's headed by Richard Johnston, who is a New Democrat." Jim mentioned Durham College, but it is clear that a whole series of the colleges have a certain independence. I think each of us has our own colleges locally that express a certain point of view and will that are not seen to be easily moved into a consensus or even a unanimous position with respect to something that the chair could say or deliver as policy mandate or goal to the minister he will be advising.

I have no problems with the person, but I have this interesting twinge of concern about a time when things need to be done in a pretty progressive and maybe even aggressive way, that the fallout might come from the perception as opposed to what is seen, I think, to be the reality of Richard's independence.

I wish him well, as I said to him when he was here, because I know he will be endorsed. I will vote for him, but again the issue for us all is to really ask ourselves if, at a time of presumably quick, needed change and aggressive activity that is required in some ways—maybe "salvaging" is not quite the right word; it is the one I can put my tongue on at the moment—to re-establish the credibility of the community college organizations, to deliver them into a mode of providing the co-operative effort that Richard himself spoke about as a product—I am not sure I would like to describe people who graduate from our educational institutions as "products," but I will take his name. They have to deliver a product that now needs to be far more versatile, flexible, skilled and knowledgeable as they go into unknown workplaces.

Developing that interesting consensus and co-operation among labour, business and the community colleges may be just slightly more difficult if it is seen that a fully active New Democratic Party partisan is leading the advisory group. I raise that as just the issue that sits in the back of my mind at the moment.

Mr Hayes: I think the most important thing here is Mr Johnston's résumé and the things he has been involved in. You know he was a critic for Education and Colleges and Universities on the select committee on education. In the 10 or 11 years he spent in this Legislature, I have never heard anyone actually say anything derogatory about Mr Johnston and his caring for the education system and caring for people. I think it is really a shame that some people want to play their game about—

Mr Elston: Pat, you have not been listening to the internal gossip in the old days.

Mr Hayes: I have not heard it; that is what I said, okay? But I think just to say that because the person is a New Democrat, you do not like that, I think this is kind of a poor and weak excuse. But certainly he must believe in the policies of this government and this party because he was part of implementing that. I think it is good that we have an aggressive person like him there, who is interested in the welfare of the colleges and universities in this province. I would support him even if he was not a New Democrat.

Mr Wiseman: I would like to make a couple of comments. I find it rather interesting that there is sort of an unwritten assumption here, that once you become a New Democrat or a Liberal or a Conservative, you sort of become a part of this great monolithic body that has arms and legs and only one head. I would suggest that, given the history of Richard Johnston in the past, he will have an independent voice. He will have to represent the group he will be chairing. I fully expect there will be times in the future when, with his dedication to the principles he has been fighting for and interested in and the ideas he has put forward over the years in education and the need he sees having to be met, he will from time to time have some conflict, probably with the government.

I do not see that as an unhealthy thing. It think dialogue, discussion, debate often bring out points of view and ideas that may have been missed. I see that Richard Johnston has this ability to facilitate, to get to the point, at the same time as being very critical in a positive way. From what I have heard, I believe that paramount in his mind is the idea that the colleges have to move, have to get into playing a role of leading the technology and the education and the standards of the colleges forward at a time when we are undergoing some tremendous economic changes.

I have a great deal of confidence that Richard Johnston will continue to be the Richard Johnston of the past: independent, fair, facilitating and critical. That would be a good job, so I have no problem with that, and I would like to add that if we excluded all the Liberals, Conservatives

and New Democrats from public office, we would probably be excluding an awful lot of talented, well-intentioned, dedicated people.

The Chair: Further discussion of Mr Hayes's motion? All in favour? Opposed?

Motion agreed to.

The Chair: Thank you all very much. That concludes the business for the day. See you next week. Meeting adjourned.

The committee adjourned at 1159.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 19 June 1991

The committee met at 0949 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

CATHERINE WHETTER

The Chair: I want to call the intended appointee Catherine Whetter to come forward, please. Ms Whetter, just take a seat there at the front. Welcome to the committee. We appreciate your appearance here. You were selected by the Liberal Party, the official opposition, for a half-hour review. Do you have anything you would like to say before we begin?

Ms Whetter: Yes, sir, I would.

The Chair: As briefly as possible. You can sit down.

Ms Whetter: I will stand, please. I come here and I am very angry because I am a volunteer. I have been volunteering for 40 years and this is the first time anyone has questioned my integrity and my commitment to my community. For this reason, I am here to protest that volunteers be called before this committee. If you are appointing people or looking at the credentials of people whom you, the government, are going to pay, yes, I think you have a good reason to ask for them to come before you and explain their reasons. But I am a volunteer, and as a volunteer it costs me money to come down here to explain why I am being appointed or being selected to be chairman of the district health council.

We are all volunteers on that district health council. There are so many providers and there are so many consumers. I am a consumer. I work for a living in a small business and it takes time out of my business to come here. Since I have been selected as chairman, I find that I am taking time from my business to go down to do the chairman's business in Cornwall. It is a 40-minute drive one way. I was, up until I received this call, very happy to do it because you get into a mode, I suppose. You feel you are doing it for the betterment of your community. It sounds idealistic and I know that is outmoded today. I am told that you are supposed to be politically correct, but I cannot be. I come from a very different era, where you did things for your community, for its benefit and not for the benefit of yourself. You improve your own lot in helping someone else. That goes without saying.

I am just a little upset that I should be called here because my fellow council members chose me to be a chairman for this year. The last couple of years we have had a retiree and that has made it much easier. He could pop in any time. But this year, it became my turn.

I should tell you how we select. Everyone has a vote on our council. We ask first those who would like to be on the executive to let their names stand. Then when we vote, we vote for those and the seven names which receive the most votes are selected for the executive. Then the executive goes in and chooses its chairman, vice-chairman and treasurer.

Now when I went in, I suggested to them that I really did not want to be chairman. That is what really angers me: I did not want to be here. The other person said: "I come from Clarence Creek. It is an hour's drive from there and in the wintertime I don't always make it." I said, "Yes, I realize that." So she said, "You take chairman and I'll take vice-chairman and we can work out our meetings together." I said: "Fine. That sounds great. We'll do that." Because she is bilingual and I am unilingual, I thought this way we can work out any problems we have with our francophone community. So this is what we did.

Then I received a call, "Come down and explain yourself." I do not think that is fair to volunteers, particularly when I read in the paper that this particular government is encouraging consumers to be on different agencies and boards, to give credence to the recommendations of the boards and councils. So I wonder why I am called here today. It really does upset me. It upset our council and I am sure it has upset every district health council in the province, of which today there are 28.

The Chair: Thank you very much. I do not think your selection for review here today is any reflection on your integrity or your commitment to your community. It is part of a process that has been developed by the new government and certainly all three parties that participate in this committee have an opportunity to select people to come forward.

Ms Whetter: I am aware of that.

The Chair: Just basing this on memory, I think your name was selected solely because of an interest in the eastern Ontario element and the implications for eastern Ontario and certainly had nothing to do with your abilities or your commitment or your past efforts on behalf of your community. I think that is the reason you were selected. I am sorry you felt there was some slight to you personally because I am sure it was not intended.

Ms Whetter: It is a slight to all volunteers, really and truly.

The Chair: It is a good point which I am sure will be brought forward. We would still like to have a bit of an opportunity to ask you some questions. We are discussing a permanent standing order for this committee and you make a valid point, whether indeed we should be reviewing volunteers or not. That is an excellent point and it will be considered, I assure you of that.

Mr Grandmaître: I feel the same way as you do, because I think we are not serving any of the public the way we should be. I congratulate you for your voluntary work. I was going through your CV and I see that you are a very busy woman. Thank you for all your volunteer work.

I am not questioning your integrity and I am very surprised that you would feel that way. When you were approached, whoever approached you to become chair of your DHC, were you not told there was a possibility that the government had put in a new process?

Ms Whetter: Yes, sir, and the district health council did send a letter suggesting that volunteers should not be required to come because, after all, we are volunteers and volunteers are scarce. We had to fill a vacancy in Prescott county. We ran ads in the paper twice and then we got on the phone to ask people we thought might. You see, it is not easy.

Mr Grandmaître: No, I realize it is not easy. I was a volunteer myself, and still am. With the money I am making, I consider myself a volunteer at Queen's Park.

Putting that aside, you have been an active member on your district health council since 1986. In 1989, the then Minister of Health thought the district health councils should have a new approach to their responsibilities towards the community and the health providers. Do you agree with most or all of the changes that were brought about in 1989? Did it make the district health councils more active?

Ms Whetter: We now, to me, have become more facilitators. I chaired a meeting not two weeks ago, and I am still pretty angry about that too, because I sat there and there were Ministry of Health and Ministry of Community and Social Services people there, and what I did was just get them together and get them talking together to form a committee to work to bring about better services for our dual-diagnosis people. Some are not within our area because we cannot offer the services. In fact, two from the children's aid are in Guelph because we have not got them. This upset me. I thought, "Surely to goodness you people can talk to one another. You're working for the same goal," but they did not. So that is what I did. I spent my time persuading these people to get together.

There is going to be more, I am sure, because the Health people in Toronto here have sent down directives, let's put it that way, and asked us to involve the MCSS people. Our executive director suggested that perhaps if we had a wine and cheese party and invited all of the managers of the MCSS within our area, to get to the district health council people, we would have a faster and a more pleasant rapport with them and perhaps when they need Health people they will not feel quite so threatened. From what I could gather, it was turf protection.

Mr Grandmaître: Would you agree with me that the district health councils, not only in eastern Ontario but right across this province, are not very well known? Especially their responsibilities, because they do carry a lot of responsibilities. With the consultation directly with the minister or the deputy minister, I think your added responsibilities since 1989 have become a very serious business, especially for volunteers.

Ms Whetter: It is.

Mr Grandmaître: You carry a lot of weight.

Ms Whetter: It is something that we were discussing. As I mentioned earlier, we had a retiree. If they continue to add more and more to our agenda, we are going to have to have just retirees because I cannot take that kind of time. I get up at 5:30 to get my work done. We are a dairy farm. I do that. I went down to be there at 9 in the morning. That is a bit of a hustle because I have a 40-minute drive to get there. That is why the vice-chairman said she would never make it. It would be an hour for her if the weather was good.

This is something I think the Health people have got to look at, how much they wish us to take on. For studies and recommendations, yes, we can do those very well, but I do not know how much more we can cope with within our scope of using volunteers.

The other problem, as you said, is that we are not very well known. About 99% of the population I do not think even knows we exist. The other 1% is made up of providers, who find us just a darned nuisance, or municipal elected representatives, who find us a threat to their already diminished authority. I am sorry, we should be working together, and we are not. Right now, I am attending the Ontario Association of Non-Profit Homes and Services for Seniors annual meeting, and it came out loud and clear that the district health councils are not understood at all.

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Mr Grandmaître: What will you do as new chair, a new approach? What will you do to make people in the community of eastern Ontario much more aware of your responsibilities and to invite them to participate and help you in making the right decision?

Ms Whetter: We have already started, sir. My appointment was in the paper. Jeanne d'Arc St-Jacques was the appointment for her area and was covered by all the French-speaking papers in the northern part, and mine was in the Cornwall and Dundas areas. I am trying to persuade the council to send out little blurbs in the paper of what we are doing, and this has started. We are making an effort, but I honestly think we should do a bit more. This is something we are going to have to work on if we wish to get to the community, because it is getting so difficult to get volunteers, even for our committees. You almost have to twist their arm.

I worked on one man for two months to persuade him, and he is excellent. He has all the qualification you would want for long-term care. He is a senior citizen, he is retired, he has travelled around, he knows the community, he has lived in it all his life, and it took me two months to persuade that man. Now he is interested, he thinks it is great, and he is a good addition, but to go around and ask each individual—because we have four or five committees.

Mr Grandmaître: Can you tell me about your pet project? I was reading this in the Standard.

Ms Whetter: Yes. That was my reason for submitting my name for district health council. Our youngest son was and still is emotionally disturbed. He came to us at three and a half. He is our adopted son. We tried to get help in Cornwall, and it was both inadequate and just not appropriate, so when this district health council ad appeared in the paper, I thought, although it did not help our son, perhaps I could do something for somebody else.

One night one of our neighbours and I were sitting around, and I had been in the community 18 years and he

had been there I think 25 years, and we counted up 25 suicides within a 10-miles radius of our home. We thought that was pretty shocking. Many of these are young people, not old ones. They are teenagers and people in their early twenties. This was really my reason for submitting my name to the district health council.

We have just finished a study, and they had done one in 1986, and the same shortcomings are turning up again and again. That is the thing I really would like to see changed.

Mr Grandmaître: How concerned are you about the escalating cost of our health care system in Ontario, and are you concerned at the possibility that this universal service could receive some severe cuts from the federal government and possibly the province of Ontario, or any other province for that matter? Are you concerned that this great system may be fragmented within the next five or 10 or 15 years?

Ms Whetter: I am. As a taxpayer I am very concerned, and I honestly think there are duplications in service, like from the Ministry of Community and Social Services and the Ministry of Health. From what I have seen with the mental health study, I think we are running around creating problems where none should exist. We should have a smooth system whereby if I go to my doctor, he can plug me into a system where I will go right through.

What really shook me is our son started in MCSS, which I did not know—I thought it was the Ministry of Health; I was not informed otherwise—and then when he got to a certain age, he fell through the cracks because the Ministry of Health did not pick it up. So what have you got? You have a young lad there who is not doing well at all. He is old enough that we have no control. He is on welfare and he should not be; he should be a working citizen, but because of the treatment he received, or lack of it, we can do nothing.

Mr Grandmaître: One last question: We would like to think that our system in Ontario is the best in Canada. What are your thoughts on that?

Ms Whetter: I cannot tell you, sir, because I only know of Ontario. From what I have heard from other people, one, I think we have a marvellous volunteer system. I cannot emphasize that too much, because it is not only volunteering on boards and so on but you have all the volunteers in the hospitals and everywhere else. Two, I think we have it too good. We do not realize how good it is.

Mr Grandmaître: Absolutely. Thank you. Good luck.

Mr Waters: In some of the background that we have received there is a comment that I found a bit disturbing and I would like you to comment yourself on it. In one of the articles it says: "With the maturing of the district health council, there appears to be a tendency towards increased provider domination of the councils."

Ms Whetter: Not in ours. Ours is actually tipping the other way. We are getting more consumers than providers. I cannot comment on others, but I can comment on ours.

Mr Waters: What they are saying is that the professionals stay on and the volunteers from the community come and go, therefore those who stay on sort of dominate. That is not happening in yours?

Ms Whetter: Not in ours, no. We got a provider from Dundas, because that was the only one we could get. We advertised twice. We went around and banged on doors. We got one provider and that was it, but the other one is a consumer. There are two representatives from Dundas. I represent the five counties of Stormont, Dundas, Glengarry, Prescott and Russell, and we try to keep a ratio, a proportion, of consumers to providers and also of francophones to anglophones. This is hard; really it is.

Mr Waters: You have the extra problem down there of the language balance that some of the other councils do not have to put up with.

Ms Whetter: Yes. That is why we always try to have on our executive enough francophones so that we can get the flavour of what they require, and they require quite a bit down there, I can assure you. I am an anglophone, remember, but I see that if we do not help our whole community, we help no one.

Mr Waters: The other question I have, because it was also in the comments that they provided us, was that health councillors are not elected by the community. I was wondering if you could comment on whether you feel there should be basically—

Ms Whetter: If I was waiting for an election, sir, I would not be elected, because I do not have enough relations in the county. Too many elected officials in our area are elected by relatives.

Mr Waters: Okay. That answered that one.

Mr Frankford: I have to admit I am a family doctor myself and you mentioned about family doctors. It seems to me that a considerable amount of health care in the community is what goes through family doctors' offices.

Ms Whetter: It is primary care, yes.

Mr Frankford: And it seems to me that a lot of that really does not come into consideration by district health councils. Would you like to comment on that?

Ms Whetter: We have always had a doctor on our council and he has always been very vocal. We have an anglophone now but he speaks French, and the one before was a francophone. We always try and have somebody of that profession on our council, although we do get letters saying we do not have input from the academy of medicine in Cornwall. But they have problems of their own that we cannot solve for them; they have to solve them themselves.

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Mr Frankford: Just moving on, it seem to me there is not enough input from physicians as a whole, because I think a significant proportion of what is going on in health is what is provided in their offices.

Ms Whetter: Do you know what we want? I am a consumer. Do you know what I really want? Sometimes I come in and I natter and chew at you. Do you really know, sir?

Mr Frankford: I hope so. In the other direction, I am not sure if there is enough input from bodies such as district health councils to co-ordinate in a community-based practice. I am just wondering if you would like to comment on that.

Ms Whetter: We have a health and hospital services committee, and we also have a mental health committee. We have community health and the doctors are invited to come and make their views known, and they say, "We are too busy." It is not Toronto; we do not have a lot of doctors to spare. We were lucky to get the one in Dundas and that is only because he is new. He has only been there a year.

Mr Frankford: One final question: I am certainly well aware that there is this problem of unequal supply, particularly in rural areas. Would you say that district health councils could get more involved in a more rational system?

Ms Whetter: We have been trying. This is something we are trying to do. In fact, we are hoping to set up a meeting with the doctors of the area and the person from the Ministry of Health, to come down and explain the community health clinics. Perhaps we could get some of those going so that we could persuade some of the younger doctors to come into our area. I think it is either at the end of this month or early in September. It is to get our people from the Ministry of Health to come down to us. We are working on it.

Mr Hayes: Ms Whetter, I certainly understand your frustration at having to come away from your busy schedule, especially with the Toronto traffic, but I would just like to explain to you, the process here is that when we do appoint people for boards and agencies, we do not bring everybody in. Each party, as a matter of fact, chooses a person it wants to bring in. In this case, I guess it was the Liberal Party that suggested we bring you in.

Ms Whetter: Yes, I am aware of that, and I wonder why, because I was appointed.

Mr Hayes: It is not always necessary, but I think it is also important for you to know that you certainly will be reimbursed, or your expenses will be paid by the Ministry of Health.

Another comment I would like to make to you is that, actually it is a breath of fresh air to have someone come in front of us and publicly—

Ms Whetter: —give you the devil. Yes, I will.

Mr Hayes: —give us the devil. I think that is very important. It is important that people like you with your volunteer work speak up. If we do not speak up, a lot of times we do not get things done the way we want them, and I compliment you for that.

There have been some concerns in the past about the Ministry of Health really not paying any attention maybe to some of the district health councils. Can you relate to that for us and maybe tell us what is really needed to improve our relationship?

Ms Whetter: When our studies go in, they seem to go into a black hole, and it takes a long time. Perhaps other district health councils which are closer to Toronto may have better luck. Maybe they can get on the phone or come down and knock on the door and say: "Look, folks, this is really what we want. This is what our community really needs," and much of what we ask for is really cost-effective. When we really look at it, we are not asking for randy old schemes to put up large buildings and staff. Mostly it is just to get the services for our people so that we keep them out of the hospital, so that we keep them out of the doctor's office, and healthy. That is really what our main thrust is.

Sometimes, as I say, it is frustrating. I look at our studies and I think, "Dear Lord, why did we go through all those problems?" I can tell you, because I added it up, that this month I will spend at least 15 to 20 hours just on volunteering for the DHC.

Mr Hayes: I believe you.

Ms Whetter: That is not counting the time I drive back and forth to it. As I say, it is a 40-minute drive to Cornwall, one way.

Mr Wiseman: I would like to ask you a couple of questions. The one I would like to have you comment on the most, and you sort of alluded to it but you have not really described it, is about groups that resist change because they are protecting their own turf. Do you run into problems where changes could have been made but they were resisted, not for any sound reason but because people were maybe protecting their own little empires?

Ms Whetter: Do you want me to name names?

Mr Wiseman: No, I do not think you need to name names, but perhaps you could—

Ms Whetter: We have a problem in that we have two hospitals in Cornwall and we have two emergencies. We have two of this and two of that. That is not cost-effective. But do you think we can persuade them that maybe if one took one and the other one took another—no, sir.

The other is our mental health. It is in a mess. I have two letters now that are actually directed to the Ministry of Health. Really and truly, it is of their own making. I should not, but I would like to go in there and show them a few office practices that, if they just tried them, would certainly be much more cost-effective and they could put their people to work where they are supposed to be, instead of sitting in an office pushing paper.

Mr Wiseman: This is going to be a really big problem for any government that tries to make changes in the system, because you can see that every time one program perhaps is cancelled a whole group of people gets angry about the cancellation of the program.

Ms Whetter: Yes.

Mr Wiseman: If you could offer any insights on how to do this or how to approach these kinds of changes, we would be more than grateful.

Ms Whetter: I am sure you would, but I do not have an answer either. Remember, my husband and I just run a small business. I always bring those experiences to what I do at the district health council, so when I see someone have a program where it is top-heavy with management, I know it is not going to run properly. But the Ministry of Health is like a cash cow. It is like any ministry. "We'll have a manager for this and a manager for that and a supervisor for this and a supervisor for that," and so then we do not have anybody out in the field. If I did that, we would not get any hay in at all.

Mr Villeneuve: Catherine, it is always very refreshing to see you. I am sorry I had another meeting. I came as

soon as I could. I am sure you are very much aware of the problems with, say, the hospital in Winchester.

Ms Whetter: Yes, I am.

Mr Villeneuve: I have been bringing them to the attention of the former Minister of Health and to the present Minister of Health. I am not sure what will happen there. All of a sudden, we find that more important than looking after patients are people's jobs. All of a sudden, people who worked at the hospital say, "My job is now redundant." The hospital has projected a $1.4-million deficit on top of a $500,000 deficit that is there now and, all of a sudden, the business of the hospital is more important for the people who are working there than the patients they are serving. That disturbs me. I would like your comments on it. Talk about protecting one's little empire. I think this is what we have gotten down to and I feel rather sad about that, because the primary aim of a hospital is to treat people who need some health services. Your comments on that, please, Catherine.

Ms Whetter: Yes, I have watched that from a distance, in the paper. I have been watching it, though, and I think what has happened to poor old Winchester, and I think has happened to a lot, is that during the time of the former administrator it was built up in this managerial sort of way—"We need people for this and we need people for that"—and the patient was forgotten. I do not think Winchester is alone. I think there are many hospitals running into the same situation. They have managers. "We'll give that one a fancy title and that will give her X number of dollars." The patient has not received any better care.

I would like to see that hospital turned into a clinic. Have a clinic there and offer some outpatient services instead of always having to go into hospital to stay. I think the community which it was built to serve would again be served better. I am not very happy with that situation there at all.

Mr Villeneuve: I know we have many problems in a large rural community, and Cornwall being the centre generally gets a lot of the attention, as you have just mentioned. Yet there are some 50,000-plus people in the area I represent who are being served primarily by the Cornwall hospitals and the other three hospitals, in Kemptville, Alexandria and Winchester. I appreciate your approach, the commonsense approach, the successful dairy farmer approach, which is a pretty heavy work ethic. I think the district health council is in good hands as long as you keep on speaking your mind the way you do.

The Chair: Thank you very much, Ms Whetter. We appreciate your appearance here today, even though you were not terribly pleased with the request to be here. We appreciate the opportunity to talk about the concerns of members and we wish you well with your added responsibilities. Also, as Mr Hayes indicated in terms of expenses, you should be able to claim those from the Ministry of Health. If you have any difficulty in doing so, contact our clerk and he will expedite matters for you.

Ms Whetter: I just have one last comment, sir, to all three parties.

The Chair: Make it brief, please.

Ms Whetter: Would you please go back and tell them volunteers do not grow on trees?

1020

MICHAEL CASSIDY

The Chair: Michael Cassidy is an intended appointee as a member of the Ontario Hydro board of directors. Welcome to the committee and welcome back to Queen's Park. Do you have any brief comments you would like to make?

Mr Cassidy: Yes, I have a brief opening statement.

It is an honour to be nominated to the board of directors of Ontario Hydro and I am pleased to have the opportunity to appear before the standing committee on government agencies to have the appointment reviewed. Your committee is one of the welcome innovations which has taken place in the Legislature since I was last here as a member in 1984.

Ontario Hydro is one of the largest companies in Canada and it directly or indirectly serves every citizen, every industry and every business in the province. It accounts for a major share of the funds borrowed by the province every year and is one of the province's major employers. In fact, Hydro is so big that in the past it has tended to be a law unto itself without being effectively accountable to the government, to the Legislature or to its owners, the shareholders, the people of Ontario. That position is changing now and that is why I look on the prospect of joining the Hydro board at this time as such a challenge.

The change in government last fall has brought a change in direction for Hydro, with a strong emphasis, a strong priority on conservation and on energy efficiency. Hydro's continuing reliance on nuclear energy for new generating capacity is being profoundly questioned. These are all new directions with which I am in broad sympathy.

The Power Corporation Act already gives the government power to issue broad policy directions for Hydro, and the amendments which I gather were recently tabled will in fact allow it to issue directives to Hydro as well. I think that is as it should be for any crown corporation, but it takes more than a few policy directives to really change the direction and the culture of an organization as big and as well established as Hydro.

The board of directors that is now emerging reflects a much broader range of experience and of concerns across the province than has been traditional at Ontario Hydro. If I am confirmed as a director, I would see the board playing a significant role in helping to implement change from within, in responding to concerns about conservation and the environment, in working out new forms of partnership with native peoples, with Hydro's employees, with its consumers, with the municipal utilities and with business.

My background is untypical of people who have been appointed as Hydro directors in the past, but none the less I believe I am well qualified. I am an economist and business journalist by profession, I am now head of my own small company working in the area of public affairs and, as you know, I have had a great deal of exposure to the kinds of issues that affect Hydro through almost 20 years of public life at all three levels of government. I think I know every corner of Ontario from my work here at Queen's Park and I was a persistent advocate of energy

conservation as an alternative to singleminded concentration of nuclear power when I was in the Ontario Legislature.

Any board of directors has special responsibilities for the direction and management of the company for which it is responsible on behalf of the owners or shareholders, which in this case means the people of Ontario. Hydro is no different. While my sympathy to the government's policy directions is clear and, I am sure, plays a role in my being selected to be nominated to the board, I am committed. I do commit myself to give my best judgement to the operations and the policies of Hydro based on my knowledge and experience if I am confirmed. Thank you very much and I welcome your questions.

The Chair: You were selected for review by the third party and we will start off the questioning with Mr Jordan.

Mr Jordan: It is certainly a pleasure to have the opportunity to discuss the future of Hydro with you as the recent appointee, or nominee I guess it is at the present, to the board.

First of all, do you feel that this committee is really going to serve a purpose this morning in providing time for this interview relative to your appointment or do you see it as strictly an information session without any effect on whether the appointment is acclaimed or not?

Mr Cassidy: In the end the committee, I understand, makes a recommendation and in fact passes a vote. I think the process is extremely important. It is one I supported during my time, particularly when it was adopted in the federal House where I was a member, because I think the very fact of having the review makes any government think twice before putting people into positions for which they are not qualified or where they cannot make a contribution. Just the fact that any appointment is subject to review is in itself, I think, an important check on a government.

In addition, I think if the members are doing their job and an appointment slips through that perhaps should not have been made, whether or not the members, say, from the opposition, have got their votes to actually reverse an appointment, they can still make life very uncomfortable for the government and unmake an appointment or make sure that kind of appointment is not made again.

Mr Jordan: From your presentation, you are well aware of the changes the Minister of Energy has initiated in the Power Corporation Act.

Mr Cassidy: Yes.

Mr Jordan: I take from your comments that you support that change?

Mr Cassidy: I think that is healthy. There should be a means by which the government, which represents the owners, which is the shareholder, should be able to give that kind of directive. I think it would be unhealthy if any government were to try to take over the operations and management of Hydro by issuing constant directives. If the system works well, I hope this power is used sparingly.

I also hope, and I think it is probably the case, those directives have to be made public. In the past, we had a situation when I was at Queen's Park where the chairman or the president of Hydro would have a little tête-à-tête with the Premier and the Premier would indicate that he wanted a dam in Arnprior or something else, because that would be valuable for some reason, perhaps a political reason, and it would get done. It was done with a wink and a nod and people could not tell whether the responsibility was the government's or whether the responsibility was Hydro's. I think it is much healthier to have this out in the open.

Mr Jordan: The point that bothers me is that the board of directors has made an appointment of an executive officer who knows the operation, who has the executive training to do the job, and there seems to be a feeling in government, a fear that even though he may be best qualified, he would be reluctant to implement its policies. Do you see that as a reason not to choose the better-qualified person?

Mr Cassidy: Obviously, I was not a part of it, but looking at the internal evidence, the period that elapsed between Mr Franklin announcing his resignation as president and chairman and the appointment of Mr Holt as president and CEO was extremely brief. Therefore, I would have to question whether they did a really thorough search process. I would have thought there might have been four or five presidents or chairmen of Hydro utilities across the country who might have been considered for the position if they were doing what they said they were doing, which was looking for somebody with those qualifications and competence.

Mr Elston: The same then applies to Mr Eliesen's appointment too, I take it?

Mr Cassidy: That appointment was not, however, made by the Hydro board.

Mr Elston: I understand that.

The Chair: Mr Elston, you are out of order, please. Mr Jordan has the floor.

Mr Cassidy: I am just simply saying I have some questions about a board which is in a sense a lame duck.

Mr Jordan: May I intercede here for a minute? You suggested that the present board did not do a proper search for a qualified person.

Mr Cassidy: I cannot say that. All I can say is that the time that elapsed between their indicating to the government that they were commencing a search for a president and then making the appointment was extremely short given the nature of the job. I just really question whether demonstrably they did a search outside of Hydro, and it seems to me that with a corporation this large you have to look outside as well as inside.

Mr Jordan: They had an outside consultant look outside and inside Hydro and then they made this choice of a president. Do you accept the fact that as an executive officer, he does have the knowledge, the training to do the job to a more qualified degree than the chairman whom the government would like to take over that position? You accept that from your own assessment of it on a personal basis?

1030

Mr Cassidy: You must understand that I do not have much more than the CV of Mr Holt to guide me. I would say that at the very least it looks, say, about equal, and Mr Holt has a knowledge of Ontario Hydro. Mr Eliesen has a knowledge of Ontario Hydro, again through a couple of

years as Deputy Minister of Energy since his appointment at the beginning of 1990, I guess it was. Mr Holt has not been a chief executive officer and Mr Eliesen has been. Mr Eliesen has four or six years at the CEO level in Manitoba, and it seems to me that is like managing the Syracuse team and then coming to manage the Blue Jays. It is a step up. But the kind of responsibilities he has had in fact have been broader than those of Mr Holt.

Mr Jordan: How many employees at Manitoba Hydro?

Mr Cassidy: Probably about one seventh the number at Ontario Hydro.

Mr Jordan: Or maybe one tenth, and the technology and the whole operation are completely different. You would have to be aware of that yourself.

Mr Cassidy: I think you are making the argument, Mr Jordan, that nobody but somebody who came up from internal sources could ever become the chair of Ontario Hydro. Therefore you would say that perhaps Mr Franklin should not have been appointed five years ago.

Mr Jordan: No, I do not. I think he was well qualified and was well researched.

Mr Cassidy: But he did not have a knowledge of Hydro. He did not have a knowledge of the technology. He did not have a knowledge of most of the core businesses of Hydro—

Mr Jordan: But he had more than a professional—

Mr Cassidy: —and he had not been a CEO. He had been a professional manager and I am sure is very good, but you can always second-guess any choice like that. We are talking about changes in direction for Hydro. At the very least I think the outgoing board should have, let's say, consulted with the government before taking actions that I consider to have been peremptory.

Mr Jordan: In 1978, Mr Cassidy, you asked the then Minister of Energy, "What specific steps is the government taking to ensure that full consideration is given to the employment implications of all future energy policy directives in this province?" That was a question of yours to Mr Auld in 1978 regarding changes in Ontario Hydro, and I ask you that this morning relative to the changes that I see you are planning, or your government. The government and the corporation, as I see it, are going to be one. If this nuclear change takes place, what consideration is being given in order with the question you had asked at that time?

Mr Cassidy: In the first place, you said the government and the corporation are going to be one. I stated that, while my views are matters of public record, if confirmed as a director of Hydro, I certainly intend to use my judgement and my experience in terms of reaching conclusions on the board. I will not be turning around and calling up somebody in government and saying, "What do I do next?" That is not why I am being appointed.

The second thing is that I look at, let's say, the employment implications of a $12-billion investment like Darlington. When Darlington is built, in the end it will take a handful of people to operate. There are problems right now, as you know, just in terms of whether the technology is going to work out.

Back in 1978, one of the arguments I was making was that we should look at the range of initiatives by Hydro in the areas of conservation and alternative forms of energy as well as the route it was taking, following the nuclear option. One of the reasons was because of the employment implications.

Mr Jordan: Do you see conservation as a form of rationing?

Mr Cassidy: No, I do not. I do see it as a means of using energy more efficiently. I do not think you disagree with that. You have lights blazing all night because nobody bothers to turn them out. It seems like a waste in terms of where we are in our society. Whether we have to burn irreplaceable oil and gas to burn those lights, whether we have to send hot air up into the environment and contribute to global warming, whether we have to use hydraulic power that can be used for other purposes—anything like that is a waste and I am sure you agree with me that it should be avoided.

Mr Jordan: In a speech to the Association of Major Power Consumers of Ontario, Frank Pickard stated, "The ongoing uncertainty over the province's energy cost and supply is the biggest single issue industry is facing in this province." How would you address businesses in the province which are concerned with the province's energy supply?

Mr Cassidy: I would have thought the bigger issues might be such things as the exchange rate, which is creating tremendous problems, and some of the implications of the free trade deal, but that is perhaps another discussion.

However, given the concern of the association of major power consumers, I think that the current hearings over the demand-supply plan of Hydro, which I believe will take another couple of years, are clearly creating uncertainty, but it is an uncertainty that one has to say must have existed from the time the previous government decided to initiate that kind of process.

It is an uncertainty that probably exists in almost every jurisdiction in North America because of the concern over environmental implications of major projects such as electricity generating projects, and it has led to various forms of environmental assessment. Therefore I suspect the association's counterparts in other provinces and states in North America are saying the same thing with respect to their situation. That is the kind of public environment we live in.

I do not think you would suggest that the Environmental Assessment Board should not be holding those hearings but, yes, I agree that it creates some uncertainty. That is going to happen.

Mr Wiseman: I have a number of questions for you. They revolve around the untapped capacity that is available to Ontario Hydro. In a recent study that Hydro has done, it has gone through five or six different forms of energy sources and has sort of estimated the number of megawatts that are capable of being generated, somewhere in the neighbourhood of 6,000 to 7,000 megawatts. The cogeneration alternatives are numerous.

Do you see this as a major focus that they should be embarking on, to have cogeneration buyback facilities developed throughout the province?

Mr Cassidy: Yes, I do. The amount of power that comes from that source right now is extremely limited. For many years it was limited because Hydro's buyback rate was so low that it basically did not pay. The reason that the buyback rate was low was because Hydro essentially did not want to see base load diverted from its nuclear power plants as the program continued from Pickering to Bruce and then to Darlington.

Yes, I think this is one area which should be encouraged. In many cases, cogeneration and small electricity generating projects are a good deal less environmentally damaging and more environmentally sensitive than megaprojects of whatever type.

Mr Wiseman: One of the problems that I foresee in this area is that the rate being paid now on the buyback in off-peak hours is really quite low. It would seem to me that the off-peak-hour time would be when the energy would be available from the cogenerators. The peak hour time, when the rate is the highest, would be when they would be selling it to their customers, so there would not be as much to purchase back. It would seem to me that the real benefits of costs, setting it up and getting it started, that their profit may be made in the off-peak hours as opposed to the peak hours. Could you comment on that?

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Mr Cassidy: That is a fairly technical issue, but I would assume that in off-peak hours, while Hydro can slow down the water it is using in Niagara Falls and so on, it cannot slow down the nuclear power stations. Basically they produce enough base load that there is not a lot of call for off-peak power coming from cogeneration.

If the price varies then, I would say as an economist, what that means is you are sending a signal to people or firms who want to engage in cogeneration to try to design their facilities in such a way that they can feed power into the grid at the times that Hydro needs it the most. Therefore, to cut the rate in peak hours and to increase it in off-peak might make certain types of cogeneration more financially attractive, but at the same time that would be of less use to Hydro.

In the end, Hydro's problem is that in a few days in December you get the load peaking in Ontario, and whether by its own sources or by buying from somewhere else when other people are having the same problems, it has got to be able to meet that demand. That is why a differential price may make some sense.

Mr Wiseman: I am concerned about research and development, and in particular the fact that we as a country are not really involved in an in-depth way in hydrogen research.

You will probably recall the speech that Howard McCurdy made in the House when the federal government cancelled its hydrogen research at the National Research Council. In it he indicated that other nations in the world, particularly Germany, are far ahead.

Do you see the potential for Ontario Hydro to become even more involved—I know they are doing a little bit of hydrogen research in Mississauga—but even more involved with hydrogen research?

Mr Cassidy: It is an area I do not know a great deal about but, as I recall, Ed Philip used to be extremely interested in this area as well in the Ontario House. It seems like a natural because hydrogen is basically a way of responding to the problem we just talked about, of taking off-peak power and translating it into a power supply which is available to meet the peaks.

I think Hydro should be looking at it very seriously, although until now it is one of those things that is always just out there but never quite realized. Maybe it will not work, but I would certainly like to see it pursued.

Mr Wiseman: I have one last question concerning the upgrading of old equipment and the programs Ontario Hydro has put into place with respect to giving grants for the use of energy-efficient motors. This is creating a problem in the industry of rewinding motors. Businesses are getting grants from Ontario Hydro to buy brand-new high efficiency motors. People who are rewinding motors are not getting any grants to rewind them in an energy-efficient way, so they are going out of business.

I would be concerned that a director should take care to look holistically at what his or her programs are going to do in the marketplace. Could you comment on that?

Mr Cassidy: I think you make a good point. It may be that if you are going to provide an incentive of 25% of the cost for an energy-efficient motor, maybe you provide something less than that for a motor that is not quite as energy-efficient but that is certainly a substantial improvement which has been produced by a recycler or a rewinder.

I was struck by the success of Hydro's marketing of energy-efficient lamps with the aid of Loblaws a year or so ago. I have no particular objection to Hydro using marketing and other devices in order to try to sugar-coat energy conservation and get people to be on board. I think there is a great deal of public sympathy and support for that, if people can be given the chance to do it without too much difficulty in access. Just as they are prepared to use blue boxes across the province, they are prepared to use energy-efficient lightbulbs if you make them available in a reasonable way.

Mr Klopp: Maybe this is more of a comment. My riding is in a rural area, so I guess I get to run into the Hydro people a few more times than some people in the cities do.

One of the comments that I have heard in off hours is that Ontario Hydro is looking at renting companies to do work for it rather than having staff. From being out in the coffee shops, I hope they are doing it recognizing that in rural Ontario it is not more cost-effective not to have full-time staff. When a Hydro line goes out, as some of the members here know, it is not very easy to get someone at short notice. Maybe they are standing around, but you actually do need them. It is like the guys running the plow. We do not need them all summer. But in the wintertime we all want someone there and it is better to have them working on staff full-time.

I certainly hope that if anything like that is done, the board will consider what is more efficient in human terms and in service to the people of rural Ontario. I know when my Hydro line goes out, I do not want to have people sitting around waiting for five hours until they get some contractor to come over. We want that person to come fairly fast. That is why I do not mind that Hydro bill. I certainly hope that is being looked at.

Mr Cassidy: I think that is a valid point. I am aware of the issue. Obviously I have not had a chance to explore it in detail.

I think one of the challenges in terms of turning Hydro around—and we are talking, I think, about turning Hydro around—is it has to become more efficient, oddly enough, because if you look at the profit figures, the recession has really hit Hydro badly. It is now projecting power rate increases which are well above the rate of inflation, and that is going to have an economic effect on the province as well.

That increase in efficiency does not have to be achieved, in my opinion, by buying everything from Mexico or by subcontracting to people who are working a full 15 hours or something like that. That is not the way Hydro should operate. That will not give you both the security and safety for workers and the reliability we demand in our Hydro utility in this province.

Mr Klopp: I just want to make a really short comment on the whole thing. It always seems that upper management never gets cut. It is the linemen whose jobs we are going to be cut to make it more efficient. I hope that attitude is looked at all the way through.

Mr Cassidy: I hear you. Yes.

Mr Waters: I have a bit of a concern, and that is that Ontario Hydro seems to be going through the province right now reviewing some of the small hydroelectric plants that have been built since the early days of Hydro—they have been there for 50 years or something—looking at decommissioning or refitting. I wonder if you could comment on what side of this you would like to see, because I have seen some already they have taken a look at and decommissioned to the point where they cannot be rebuilt.

Mr Cassidy: I think you raised one of those when Mr Eliesen was here with respect to a plant somewhere in Muskoka. I was surprised to see that, because I would have thought that one way or the other it should be possible to continue to use that and to feed that power into the grid. I do not know the circumstances in that particular case. It may be that Hydro on its own would have difficulty making that particular operation work, but the local municipal utility, for example, might be able to make it work by making it an adjunct to other operations so that it was more efficient to run after it was re-equipped. There may be other options which should be exempt. I am not averse to that at all.

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Mr McGuinty: Mr Cassidy, as a director, to whom would you owe a fiduciary duty, to the government or the ratepayers?

Mr Cassidy: The fiduciary duty of a director in a normal private corporation is in fact to the shareholders. Hydro does not have share capital and it is a crown corporation, but the owners are the people of the province whose ownership is transmitted through the government, which in turn chooses the directors and has some say in naming certain officers of Hydro. That is a rather ambiguous answer, I guess. I think the concept of stakeholders is probably the best one to look at. As a director and given that situation, obviously I would have regard for the views of the government, but also for the interests of the other stakeholders, which means the ratepayers, the businesses, the municipal utilities that have a particular role within Hydro, users in industry and so on.

Mr McGuinty: My concern, of course, is that you could be placed in a position of conflict as a director, particularly in light of the proposed amendments to the Power Corporation Act, which even go so far as to absolve you from any responsibility or accountability as long as you are doing as the government tells you.

Let me give me a specific example of something that is taking place right now. As a ratepayer, I am not happy that the government has ordered Ontario Hydro to pay $160 million more for uranium from Elliot Lake over the next three years than it can get elsewhere on the open market. It also told them to inject $65 million into the Northern Ontario Heritage Fund Corp. There you have a case where as a ratepayer I am not pleased with those actions. How would you resolve that conflict as a director if I as a ratepayer expressed my concerns to you? Do you condone the government using Ontario Hydro to solve an unemployment problem in the way it is doing?

Mr Cassidy: I think you have to go back a bit, Mr McGuinty. The problem at Elliot Lake dates from decisions of the Conservatives back in the 1970s to commit to a contract which at the time appeared to be uneconomic and which have proved to be uneconomic in the sense of this high-cost uranium, when much lower-cost uranium was available from outside the province.

The government, in making its wishes known to Hydro, and Hydro itself therefore had a choice: Do you then walk out? The people of Elliot Lake are not responsible for that. Do you continue the contracts until the year 2000 and then have the town face the same problems of readaptation as it has to face now or do you try to find some middle course? You are a politician. It makes sense to try to find some way by which everybody can benefit without getting into the very high cost or just simply continuing as though the world had not changed.

I believe the previous government was going to continue the contracts till the year 2000. I think what is being done is a good deal more prudent, but I find it very hard for Hydro to say, "Too bad, chaps. Mistakes were made in the 1970s so we are going to shut you down today," when Hydro is the last remaining customer for Elliot Lake uranium.

Mr McGuinty: So you condone the government using Ontario Hydro's funds to deal with what are properly government problems.

Mr Cassidy: Let's start by saying that this is a directive. The government has taken responsibility for saying to Hydro, "Go ahead and do it." As I said before, I think that is as it should be. I mentioned the Arnprior dam, with which I was intimately involved. Somebody from Hydro wandered into Arnprior one day during an election in 1971 and said: "We are going to build you a dam. We always knew you wanted it." It was touted as an economic development investment. In my opinion, to this day I think it was an unjustified investment.

There was no directive that Hydro was taking an action which you would categorize as being uneconomic and unjustified. That was done with a wink and a nod, and I do not think that is correct. But I think Hydro has a special responsibility for Elliot Lake, which perhaps sets it apart from using Hydro as an instrument to, let's say, give cheap power to a particular part of the province as an instrument of economic development. That would probably be better done by means of direct government incentive.

Mr McGuinty: One last question on the nuclear option: I take it you do not favour the nuclear option. Is that correct?

Mr Cassidy: Put it this way. We have the nuclear option in the sense that there are 10,000 or 15,000 megawatts of nuclear power out there coming on stream when Darlington gets sorted out. I cannot see for the foreseeable future, let's say a 10-year or 15-year time span, that Hydro is going to move away from that amount of reliance on nuclear power. The question for the next decade is, does Hydro continue to commit new nuclear stations or does it look very intensely at all the other options? That would be the direction I would prefer.

Mr McGuinty: If the environmental assessment which is reviewing the 25-year demand-supply plan at the present time, if that body which is conducting what I would categorize as a thorough, impartial and objective review of the plan, recommends at the end of the day that a nuclear component be contained in our approach to future generation, how would you react to that?

Mr Cassidy: That would mean if Hydro then found it needed to meet electricity demand by having a nuclear power station, it would have the basic authorization from the Environmental Assessment Board to do so; but it does not mean Hydro therefore has to start to put the shovels in the ground the next day and build a nuclear power station, if it proves possible and desirable to use other means to meet the need for power through alternative sources of generation or through demand management and conservation.

Remember that the plan Hydro put forward was a plan which was shaped at the time of the previous government and therefore perhaps went more heavily on the use of nuclear than some other plan put forward by Hydro that the new government would rely on. So it does not mean that Hydro is committed, although it opens the door if that is needed.

Mr Elston: Mr Cassidy, you are antinuclear, are you not?

Mr Cassidy: I have indicated my position, which is that I have grave reservations about it. We looked very strongly, when I was leader of the party, at trying to de-emphasize the use of nuclear. We did not say the nuclear plants then existing in Ontario should be shut down. What we did say, though, was that we should be looking very strongly towards means of conservation and energy efficiency.

Mr Elston: You have a job with the Ginger Group Consultants?

Mr Cassidy: Correct.

Mr Elston: Still?

Mr Cassidy: Yes.

Mr Elston: Do you not think that as a consultant and probably a lobbyist you have some major potential for conflicts of interest?

Mr Cassidy: I have thought about that and I have inquired about it, and the answer is no. My field of action is Ottawa. My area is public affairs, but I am not engaging—

Mr Elston: Do they consume hydro in Ottawa?

Mr Cassidy: Yes, but I do not happen to have worked for anybody particularly concerned with Hydro, and as a director of Ontario Hydro I am obviously going to be aware of the fact not to enter into contracts which engage me in conflict of interest.

I find it surprising that the president of the Bank of Nova Scotia could be on the board of Hydro when it is a major financial agent for Hydro, and I think that there are problems that have to be looked at in terms of conflict of interest in the existing board, but I do not think there is a problem.

Mr Elston: We heard Mr Klopp say there should be no contracting out. Is that your position?

Mr Klopp: I did not say that.

Mr Elston: I misunderstood. Mr Klopp is not saying Hydro should not contract out; he just said you should be careful.

Mr Cassidy: He was questioning the use of contracting out. I think it is a very valid point.

Mr Elston: What is your position? Are you in favour of contracting out in proper circumstances?

Mr Cassidy: I would question the use of contracting out. It has been suggested, however, that smaller companies, entrepreneurs, co-operatives and that kind of thing be able to develop alternative sources of generation, and I do not know if that is a bad—

Mr Elston: Contracting out, as you well know, Mr Cassidy, talks about the workforce of Hydro. The question I asked you quite directly was, are you in favour of contracting out?

Mr Cassidy: As a general principle, no.

Mr Elston: As a director, you would say there will be no contracting out for Hydro?

Mr Cassidy: No, I would not exclude it but I would just say that as a general principle I would prefer to keep it in-house where that is possible.

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Mr Elston: The issue now for me is with respect to the use of Hydro to raise extra tax dollars for a cash-strapped

government, as Mr Walkom would have put it, in different words than he used in his column this morning. Do you look at Hydro as a ready source of tax-raising capacity for the government of Ontario?

Mr Cassidy: With the drop in its profits in the most recent fiscal year, the answer is obviously no. Hydro was under very serious financial constraints. With the new nuclear stations coming on, each one that comes on brings a very substantial load of interest and debt repayment to Hydro, and of depreciation when they stop being in the construction phase. Hydro, therefore, is going to have difficulty keeping its rates from rising in real terms.

Mr Elston: Just two questions to finish that off. You would have resisted the directive to make a payment of $65 million to the heritage fund by Ontario Hydro?

Mr Cassidy: In response to Mr McGuinty, I suggested that if that is a better alternative than spending on uneconomic uranium until the year 2000, I would look at what has been done now very seriously.

Mr Elston: That basically is a payment of public funds into a public body for government regional development, is it not?

Mr Cassidy: I am given to understand that it was suggested to the previous government that the money keep on going in and that the contracts keep on going up to the year 2000. That could have cost a billion dollars or more.

Mr Elston: No, I talked about the heritage fund payment, which is different from what you were just talking about.

Mr Cassidy: I am just saying that I can add that $200 million is an awful lot less than $1 billion and in that sense I think Hydro is acting responsibly.

Mr Elston: But the government really has done that. The issue for me then is that, second, as a revenue-generating source you would resist, as a director of Hydro and a person who is now responsible to the ratepayers and others, a move by the current government to put provincial sales tax on energy, including electricity, as is being done now by the federal people and the GST?

Mr Cassidy: To put provincial sales tax on energy?

Mr Elston: Yes.

Mr Cassidy: I thought I paid that when I bought gasoline, but I just—

Mr Elston: Hydro. We are talking about hydro, Michael.

Mr Cassidy: Okay, yes.

Mr Elston: I am being kind of specific here. I know we pay it on gasoline. What about electricity? GST is paid. Are you in a position as a director of Hydro responsible to the ratepayers, responsible for all the economic activity that you have talked about and responsible for following provincial directives, to make a representation to the current government, as its choice, not to put provincial sales tax on electrical energy consumption?

Mr Cassidy: That is a good question and I cannot give you a direct answer to it because I have not—

Mr Elston: You have not given me any yet, so I would not be surprised.

Mr Cassidy: I would have to say that I do not know. I think it depends as well on terms of the overall—

Mr Elston: But you did know when you did the material here on your GST-related studies for certain organizations through your company, the Ginger Group, about the effect of GST on all sorts of things. Why would you not know about the effect of provincial sales tax being placed on electrical consumption? It seems to be relatively the same principles at work, would you not think?

The Chair: Mr Cassidy, you are not going to have time to respond to that. You can do it privately perhaps. We have some tough time restrictions on this committee.

Mr Elston: I want to go to a board meeting and ask him some more questions. Is that appropriate?

The Chair: Sure, whatever.

Mr Elston: Can I get appointed?

The Chair: Thank you very much, Mr Cassidy, for coming here today. We wish you well.

SUSAN GILLESPIE

The Chair: The next intended appointee for review is Susan Gillespie as a member of the Rent Review Hearings Board.

Ms Gillespie, welcome to the committee. Do you have any comments you would like to make at the outset before we get right into questioning?

Ms Gillespie: I would just like to make a couple of brief comments.

The Chair: Very briefly, please, because we are under some tough time constraints.

Ms Gillespie: Yes, I realize that.

The Chair: Can we have order, please, out of respect for our witnesses if nothing else? Thank you very much. Ms Gillespie.

Ms Gillespie: I would just like to say, as opening remarks, that I am a civil servant in the province of Ontario and I have been asked by the deputy minister to take a position at the board as vice-chair and director of the Rent Review Hearings Board. This position is the senior civil service position in that organization.

Initially, the vice-chair position was the only position in the board that could be a civil service position, and under section 39 of the act that particular position was limited to the vice-chair. However, that section of the act was repealed and replaced with another section that has taken out any restrictions on civil servants being appointed as members of the Rent Review Hearings Board.

One other comment I would like to make is that I understand you all have a copy of the bio and job description that was sent out. The position description included here is a member position. The additional responsibility for the vice-chair and director are not reflected here and that is the position I have been asked to assume.

Mr Turnbull: Obviously, we will have a difficult time in terms of rental housing. We have a tremendous number of appeals; we have a backlog. It seems to me that is going to be exacerbated by the tinkering being done by this gov-

ernment in the rent review process. Specifically, I want to talk about the need for renovations.

I believe $10 billion worth of renovations are required for Ontario's rental stock. You are obviously aware of the proposed new rent legislation that is before the House. Let's take a case of a building that has not had extensive renovations but has got to that point in its life where it does need extensive renovation. Let's hypothetically draw the case that it needs quite extensive underground parking repairs because the rebar has rusted out. You have some balconies that need major repair and the windows after a 25-year or 30-year life need replacement. They are not energy-efficient. Is it your opinion that the proposed legislation will allow landlords to be able to pay for those renovations?

Ms Gillespie: What you are asking for is an opinion on proposed policy of the government. As a professional civil servant, I have no opinion on government policy as to whether I agree with it or not. It is my responsibility as a civil servant to implement the policy that is there to the best of my ability, regardless of the government in power or which way it goes. I am not able to comment on proposed government policy.

Mr Turnbull: How would you act as a civil servant in this position when you are faced with a difficult position when a landlord is being told he must do certain renovations and he says: "I can't afford it because there is not enough money to do this and I have a mortgage. I can't pull the money out of thin air"? You would have that responsibility.

Ms Gillespie: As a civil servant and as vice-chair of the board, I am responsible for the implementation of the existing policy to the best of my abilities, which means that we have to have an expeditious process to implement the existing legislation at the appeals level. We hear the appeals of the initial orders and there are rules in the legislation, rules in the regulations that limit what board members can consider on a hearing. It is our responsibility to make sure they are responsible for making their judgement calls based on those rules. As vice-chair and director, I am responsible for providing support and moving things along as quickly as possible so that delays are removed.

Mr Turnbull: How can you provide them with the support if you have laws and regulations that conflict with the reality of money? You are going to have this difficult position. You are going to be in the appeals process where somebody says: "I am sorry. I would love to do these renovations, but I don't have any money." How will you, as a civil servant, be able to handle that load?

Ms Gillespie: By following the legislation, by implementing it.

Mr Turnbull: Blindly.

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Ms Gillespie: As a civil servant, one is not judging the government, one is not judging the policies. One takes the policies and administers them to the best of one's ability, and if somebody has a set of circumstances that in his opinion are not dealt with favourably by the policy, it is the policy that we are responsible for administering. You cannot be selective as to whether its application should not be made across the board. One has to be very consistent about that. It is the existing policy that we have to deal with.

Mr Turnbull: If you have difficulty with policy and you are being obliged to administer it without any judgement, would you consider that you have the responsibility to input to the ministry and to the minister the problems you are having with how realistic the regulations are?

Ms Gillespie: I think in the administration of the legislation one has to follow the policy and the regulations and the statutes that exist, but there has always been a mechanism for feedback to be brought forward. There is a review of orders done by a policy branch for example, input from the client groups and to the policy-making area to give that kind of feedback. But from our perspective, we have a responsibility under the legislation. As civil servants, we follow the policy that is there and, as I said earlier, regardless of which government is in power. It is the government to which you have loyalties.

Mr Turnbull: I understand what you are saying, but the thing I am struck with is you are a quasi-judicial body, and when anything goes before the courts, a judge interprets a case within the framework of the law, but also has the right to look at precedents that have been set. Precedents are often based upon a logical conclusion, but what you are telling me is you are not allowed to reach any logical conclusion as a civil servant. You just have to follow the guidelines blindly.

Ms Gillespie: One does not blindly follow, but one follows the existing policy that is there. As a member of the board sitting on a hearing panel reviewing an appeal, my responsibilities are to determine the facts of the case, to take the existing legislation and regulations and apply them as fairly and as accurately as is humanly possible to those facts.

Where court precedents have been set, then yes, they do direct to the board and the minister, with respect to the treatment of certain areas. That is at a parallel of senior civil servant and member of the board. As a member of the board holding a hearing, I review the facts of the case and apply the legislation to it. As a vice-chair and director of the civil servant, whether one agrees or disagrees with existing policy or future policy is irrelevant, because it is the existing policy that we are there to implement and that is what we do to the best of our ability.

Mr Turnbull: As a senior civil servant—and I am not asking for an opinion; I am simply asking for information that you have seen within the ministry—is it possible within the framework of the proposed new legislation to be able to pay for major renovations of buildings?

Ms Gillespie: I do not know. I have no answer to that.

Mr Turnbull: Are you aware of what the average amount of household income is spent by renters in this province?

Ms Gillespie: On average across the province?

Mr Turnbull: Yes.

Ms Gillespie: I do not have those statistics with me. When you look at that type of a scenario, if you look at the

rent-geared-to-income rent supplement units, there is the percentage limitation of income and then you compare that to the private sector when you need to have a revenue comparison.

Mr Turnbull: You will be responsible for the private sector housing?

Ms Gillespie: Yes.

Mr Turnbull: Yes, and you do not know what that is at the moment. What is your experience with the private sector rental housing?

Ms Gillespie: Rent review?

Mr Turnbull: Yes.

Ms Gillespie: Perhaps you could elaborate a little on your question.

Mr Turnbull: I am rather curious that you do not know how much is spent by the average household in this province. It is actually just over 17%, but I was just curious. We have established that you will not be able to do anything by way of interpretation, but I take it from what you were saying you are prepared to input information to the ministry on the views of legislation.

Ms Gillespie: The minister has asked for input from the civil servants into his legislation. He sent out a consultation paper last year and gave the opportunity to all of the people who work in the ministry, plus all of the potential clients affected, to input into his consultation paper.

Mr Turnbull: In looking at your résumé, did I see that political science was one of your majors?

Ms Gillespie: A long time ago, yes.

Mr Turnbull: Are you a member of a political party?

Ms Gillespie: No, I am not.

Mr Turnbull: Have you ever been active in any political party?

Ms Gillespie: No, I have not.

Mr Turnbull: I have no more questions. Thank you very much.

Mr Wiseman: I would just like to cover some things that might be more relevant than the previous questions. Your job on the board would be a one-year term, is that correct?

Ms Gillespie: Yes.

Mr Wiseman: Are you taking a leave of absence, or what kind of security do you have in terms of being able to return?

Ms Gillespie: I retain my civil service status. At the end of the appointment I would still be a civil servant and my next assignment would be up to the deputy.

Mr Wiseman: How long have you been involved in rent review?

Ms Gillespie: Fifteen years.

Mr Wiseman: That would make it 1976, relatively early on in the process, since the Davis government brought it in and announced it in the 1975 election.

Ms Gillespie: That is right.

Mr Wiseman: Rent review has undergone a considerable amount of change since then and obviously what is now happening is some more change. Could you give us a history of how you have been able to keep current in terms of the legislation? What I am looking at particularly is your familiarity with the legislation which will allow you to make the decisions based on it.

Ms Gillespie: It is a big question. I have worked in all of the phases of rent review. We are into the third act right now and there is a fourth before the Legislature.

In the initial legislation, I was a member of the staff. I was an information officer, mainly information and inquiry. I continued to work for the Residential Tenancy Commission once that was established to replace the first law that was in effect. The commission was established to administer the legislation and I again was in the information stream and dealt with clients, providing very current information on the legislation and the regulations and the procedures. I was given an appointment to the commission to act as an adjudicator under the Residential Tenancies Act and I held that position for four or five years. Then I experienced various adjudicating rent review applications by landlords or tenants.

When the new legislation came in, I applied for the position of regional manager of the northern region of the new rent review services branch. At that point, instead of actually making decisions on the case for which you needed extensive and thorough knowledge, I took on responsibility for managing the delivery of the program, which meant that from a more management perspective I was responsible for rent review across northern Ontario and for implementing the government policies and what not. One becomes very aware of what the content of the legislation is, so that the staff are given appropriate training and development and the procedures are in place to ensure a good product.

Mr Wiseman: So your history in terms of the legislation and what has come before is pretty extensive.

Ms Gillespie: Very extensive.

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Mr Wiseman: Since there is a backlog right now and, as I understand it, a number of people are being appointed to help alleviate this backlog, do you know the number?

Ms Gillespie: The number of people being appointed?

Mr Wiseman: Let's back this down a bit. How many adjudicators are there?

Ms Gillespie: There are 38 board member positions available and nine vacancies at this particular time. Two appointments have just gone through and, with the elimination of the restriction on civil servants being hired or being given orders in council to act as board members, we are hoping to have people within the program appointed to board member positions for the period of a year to have well-trained and qualified staff moving into the positions relatively quickly. That way we can get an earlier move on eliminating the backlog. Just to train up from scratch a new board member is quite a lengthy process because of the legislation itself.

Mr Wiseman: Do you feel comfortable with the direction in terms of putting people in place to adjudicate?

Do you feel comfortable with the direction that is now being demonstrated? Are there enough people coming in?

Ms Gillespie: With the nine, you mean?

Mr Wiseman: With the nine new people.

Ms Gillespie: We can make a lot of inroads into the backlog, and having them up and trained very quickly will help us even more. Whether the nine will ultimately be sufficient we will see as we go through the process, because the one other component that is missing is that I have got to get a good review and understanding of any other difficulties that might be experienced in the board that we may be able to alleviate, so other areas that are perhaps blocking the resolution of appeals can be dealt with.

On the one level we are hoping to hire new board members through this process to get more people sitting on appeals, but there is more to resolving an appeal than just sitting on a hearing. We have got to make sure that all of the supports are there within the organization to schedule them as quickly as possible to make sure there are no blockages caused perhaps by a lack of co-ordination of staff activity supporting the hearing process and that they are removed if they exist.

So it is a two-component area here. It is getting board members and it is making sure that the process and the staffing and the procedures in place to support that are working well. Then we will know whether ultimately that will be enough and we will deal with that when it arises.

Mr McGuinty: You have had extensive involvement in the rent review process over time. Were you consulted with respect to the legislation that is being brought forward at the present time?

Ms Gillespie: Only as far as the minister sending out a copy of the consultation paper last February inviting comments from staff in the ministry as well as members of the public and whoever else might have been interested.

Mr McGuinty: I think one of the other members addressed the issue of the backlog. That is something that has plagued the system for some time. What do you see, if you are successful in obtaining this appointment, as undoubtedly you will be, that you can do to resolve that difficulty?

Ms Gillespie: As I just mentioned, one of the first things is to get new board member positions on stream so that they can have more people committed to holding the hearings at the appeals level, because we are only talking about the appeals level here, and to look through the organization to streamline processes and procedures to expedite as much as possible the process without compromising the quality of the decisions that the board members will be making on the appeals.

We are also looking at areas to improve training for staff as well as board members. That again will be a function of what I find out in the next few weeks on the job and the problems that are encountered by the regional managers and that they have identified. It is a very big picture with a lot of components that will come together and make greater moves into the process itself.

Mr McGuinty: How has your case load been affected by the interim legislation, and how do you think it will be affected by the new legislation?

Ms Gillespie: Interim legislation being brought forth?

Mr McGuinty: Yes.

Ms Gillespie: Initially the incoming appeals were at a somewhat lower rate than in previous months simply because of the negative impact of new legislation in training and establishing new procedures to implement the bill for the Residential Rent Regulation Act into the process at the initial level. On average about 25% of the initial level orders are appealed to the board, and our incoming workload is very much a function of how many outgoing orders there are from the rent review services branch. That was one of the initial ones, and one expects that. It is a temporary thing.

With respect to other areas, the impact of Bill 4 and the number of appeals that may come out of that, we still do not know, because once the legislation was passed, there were certain time frames where landlords had an opportunity to update their previous submissions, which meant that at the rent review services level, they were not able to proceed as they would have without this bill amending the legislation.

They have had to hold back on reviewing those to give the landlords their opportunity to make further submissions, given Bill 4, and then the tenants an opportunity to respond to that. They are at present waiting for those time frames to elapse, and until they do, will not be in a position to issue any orders on them. Ultimately we will see the impact of that in late summer.

Mr McGuinty: I gather it is the members who actually sit on the board.

Ms Gillespie: The appeals? Yes.

Mr McGuinty: What criteria are there in use at the present time for membership on the board?

Ms Gillespie: The individuals must be appointed by the Lieutenant Governor in Council. Other than that and the qualifications for the job, I do not believe there are any specific criteria.

Mr McGuinty: Are you satisfied with the ability of the members at present? Are we doing what we should be doing in order to get the best people into those positions?

Ms Gillespie: I am not in a position at this point to comment on the ability of the members. There have been none except the recent two who have been appointed since my arrival on the job, so I really cannot comment on their backgrounds or their qualifications. I am satisfied that what we will be doing in the future, through competition and selection, will result in qualified people being hired.

Mr McGuinty: If you had to define criteria for qualification, what would those be?

Ms Gillespie: Understanding of the legislation and regulations, of the adjudicative process, and a financial administrative background. There is an extensive component with respect to financing acquisitions of property, so knowledge in that and the property management area is quite important. One's ability to look at the facts and apply the legislation, the judgement, is very important as well.

Those are the key components, although they are certainly not all of them.

Mr McGuinty: How did you come before this committee today? Were you contacted by someone? Did you submit an application?

Ms Gillespie: No, to come to the committee today, Mr Arnott called me and said I had been asked.

Mr McGuinty: How did you make application for the position then?

Ms Gillespie: On the request of the deputy. The ADM of housing policy and general manager of corporate resources approached me in early May, and there was a follow-up conversation with the deputy after that. That is how I was approached.

Mr McGuinty: Those are my questions, Mr Chair.

The Acting Chair (Mr Grandmaître): The government side has three minutes. Did you want to relinquish those? I would appreciate it because we are running late again. Thank you, Ms Gillespie.

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LORENZO PETRICONE

The Acting Chair: Our next nominee is Lorenzo Petricone, intended appointee as member of the Rent Review Hearings Board. The third party requested this interview.

Mr Petricone: My name is Lorenzo Petricone. My opening comment may be a little bit of a taping of what the person ahead of me said.

I have been a civil servant since 1986. I was working with rent review even before that as a commissioner with the Residential Tenancy Commission. I have had approximately 300 hearings dealing with about 9,000 units to be reviewed or in other ways subject to the act. All the time I have been a civil servant I have been involved with rent review, first as a co-ordinator of rent review compliance, and more recently as chief co-ordinator of building standards programs, which deal mainly with maintenance of buildings.

I am currently an appeals commissioner under the Residential Tenancies Act in order to clear up some of the issues that are coming back from Divisional Court. I have been asked by the executive director of rent review programs to help clear the backlog of the Rent Review Hearings Board and have accepted to do that for the next year.

As I said, I am a civil servant, and eventually at the end of that year, if I am no longer needed at the rent review, I will be going back to my job as a civil servant.

Mr Turnbull: I am very concerned about the backlog of renovations in this province. I understand, and your colleague before you said it, that as a civil servant you simply apply the law. Let's just talk about when you were applying it as a rent review commissioner. You had 300 hearings. Are there statistics kept of the number of appeals that are launched from one commissioner to another?

Mr Petricone: There may be statistics. I kept my own statistics. I think approximately 20% of my decisions were sent to appeal. Obviously some of them were affirmed, others were changed.

Mr Turnbull: Do you know of that 20% which was which?

Mr Petricone: I have no idea. I am not prepared right now to tell you what was affirmed and what was changed.

Mr Turnbull: What typically was the issue that people were appealing?

Mr Petricone: A number of issues. The matters to be considered are so vast that sometimes the treatment of evidence would be appealed. For some of them, in the opinion of the appellant, it would have been the meaning of some evidence, or possibly the lack of some evidence that could cause the order to be appealed. In other cases, there may have been strictly a clerical error in the order itself that would require an appeal. There are a number of reasons why an order may be appealed in the Residential Tenancies Act.

Mr Turnbull: In your opinion, as a result of Bill 51, the applications that were made specifically for renovations, because I gather this is your field of expertise—

Mr Petricone: You are talking about Bill 51?

Mr Turnbull: Bill 51, which was the Liberal legislation amended by Bill 4.

Mr Petricone: Yes, the Residential Rent Regulation Act.

Mr Turnbull: Under that, do you think the amount of money for renovations that was applied for by and large was justified? You saw the cases and the appeals. Were the moneys being spent on renovations?

Mr Petricone: Before I answer that question, may I remind you that I held hearings under the Residential Tenancies Act, not under the Residential Rent Regulation Act.

Mr Turnbull: Okay, but you heard appeals recently under Bill 51, right?

Mr Petricone: No. My job under the most recent legislation has been, as I said, with compliance and with the building standards program. I have had no input or direct involvement with adjudication of obligations for review, nor obviously for appeal, which is a different body altogether, the Rent Review Hearings Board.

Mr Turnbull: Yes, but obviously you have stayed current with what is going on.

Mr Petricone: Current as much as possible because of my two other jobs. In some cases I had to look up some of the orders that had been issued. Obviously, as I said, I had no authority to deal with the decisions or with the reasons behind those orders of the other appeals.

Mr Turnbull: With the compliance branch you initiated, if you wish, sometimes against the landlords' wishes but certainly on behalf of the tenants, renovations to buildings that were needed. Is that correct?

Mr Petricone: I did not quite understand the question, sir.

Mr Turnbull: In the compliance branch you identified problems with the standards of the building.

Mr Petricone: No, in the compliance branch I mainly enforced the legislation and particularly the offences that could have been committed either by the landlords or the tenants to the legislation. We had a group of investigators

doing exactly that. We would intervene mainly following a complaint of either one of the parties and we would investigate it and usually tried to resolve the problem before it got any further. In other cases, it would then be taken to court.

Mr Turnbull: But the compliance was with respect to the building standards.

Mr Petricone: No, that is my current position. My job now entails applying the decisions of the Residential Rental Standards Board. I do not know if you are familiar with that board. They send us reports on the status of building maintenance in certain buildings that have been inspected by various inspection bodies, mainly building inspectors, fire inspectors or rating devices inspectors. The residential standards board eventually issues an order of a report to us, to the rent review services. We then process that report, and in some cases issue orders for suspension of rent increases. Sometimes if matters go any further—-

Mr Turnbull: But this is because the maintenance of the building is not up to snuff.

Mr Petricone: Yes, right.

Mr Turnbull: Is it your opinion that there will be enough money in the system to be able to renovate these buildings under the proposed new legislation?

Mr Petricone: Sir, I wish I could afford the luxury of having an opinion on that. I am a civil servant and, as such, I can work with the law, apply the law as it exists and as it has been knowledgeably and intelligently discussed by you people.

Mr Turnbull: Okay, then the other side of that argument is, under the applications that were made under the previous legislation, prior to Bill 4, were the costs justified for the renovations?

Mr Petricone: Do you mean if each application was?

Mr Turnbull: Most.

Mr Petricone: I think I said earlier that I do not work with the decisions on applications under the Residential Rent Regulation Act.

Mr Turnbull: But being involved in the ministry, I am sure you were aware of what was going on.

Mr Petricone: Only marginally, sir, not in a direct decision-making position.

Mr Turnbull: What do you feel that you will bring to this job as a civil servant?

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Mr Petricone: My experience. Possibly I neglected to say that before joining the civil service, for 32 years I worked in the construction field.

Mr Turnbull: I saw that in your curriculum vitae.

Mr Petricone: I feel—at least it is my opinion; that opinion I can have—I am quite qualified to work with rent review and to judge on the merits of the case the situations that are brought before me, both from my experience in private industry and my experience with government and rent review.

Mr Turnbull: My concern is this. I understand the difficulty that the civil servant has. I am not trying to elicit any political statement from you. It is just the fact that we have a deteriorating housing stock and we going to have to fund the renovation of that. I basically believe that under the proposed legislation, there will be no money available for it because lenders will not lend. I am curious, when somebody is bound as you are as a civil servant just to apply the laws without any relationship to whether they make any sense, whether that does not compromise the whole process.

Mr Petricone: As professional civil servants, the only thing we can hope is that you as politicians or as lawmakers give us the tools and the laws that may resolve the problems you have just outlined. Once that document comes down to us, we have no other choice but to stick to it. Possibly, if I can bring out an example, if a judge were to apply his own opinion on capital punishment—

Mr Turnbull: But a judge does interpret the law.

Mr Petricone: But he cannot apply capital punishment if the law prevents him from doing that.

Mr Turnbull: He has a range of things that he can apply. You do not.

Mr Petricone: That is when the law allows a decision-maker the discretion of that range. There are laws that allow that discretion and laws that do not allow that discretion.

Mr Turnbull: I have no further questions.

Mr Hayes: Mr Petricone, there has been some criticism of the system presently and in the past, in that landlords may be able to afford, for example, a lawyer to go and represent them, yet some of the tenants do not have that luxury or cannot afford that. It puts them into an awkward imbalance really or maybe unfair representation sometimes. What is your perception of that? What do you think we can do to improve that, so everybody has a fair representation at hearings?

Mr Petricone: In terms of representation, you are right. Often the landlords may have a specific rent review consultant to appear on their behalf. Often in my experience with the previous legislation, groups of tenants would have an association which in turn would provide a lawyer or a consultant on their behalf.

It was and I think still is the responsibility, in this case of the hearing board member and in my time of the commissioner, to make sure that all parties have an opportunity to bring out their own particular issues. Something that, as commissioners, we were encouraged to do is to ask questions and possibly sometimes to analyse the evidence submitted by both parties. In that case we would help the party that was not properly represented in bringing out all the issues involved.

Mr Waters: I had to step out for a few minutes, and the only question I wanted to make sure of is that you are under the same guidelines Ms Gillespie mentioned about her employment status upon completion of this one-year term.

Mr Petricone: I suppose so, yes. I have not seen those guidelines.

Mr Waters: I just wanted to find out for sure if you were under the same guidelines.

Mr Petricone: Yes. I am told that I am in for a one-year appointment. I am still a civil servant. I will go back

to my job when I am no longer needed on the hearings board. I have accepted to help clear up the backlog. It has been offered to me and I have been invited to be part of this group by the executive director of rent review programs and I have accepted.

Mr McGuinty: You are a civil servant, as we have heard. Is it usual for a civil servant to become a member of the Rent Review Hearings Board?

Mr Petricone: Since Bill 4 has allowed that, yes.

Mr McGuinty: Are you the first?

Mr Petricone: No, I do not think so. I think there are at least two more who have been appointed.

Mr McGuinty: You retain your position as a civil servant, as I understand it. You will have a job to go back to.

Mr Petricone: Right.

Mr McGuinty: Was it requested by someone that you make application for this position?

Mr Petricone: I actually did not make an application. I was asked by the executive director of rent review programs if I were willing to give a hand in clearing up the backlog at the hearings board. In order to be a member of the hearings board, I need to be appointed by order in council. It was specifically mentioned that due to Bill 4 I would not lose my status as a civil servant and that therefore once my period under special assignment is completed, I will go back to my job.

Mr McGuinty: You are employed in which ministry now?

Mr Petricone: Housing.

Mr McGuinty: Would it not make sense to assume that your performance as a member on the board will be subject to review by your employer, the ministry?

Mr Petricone: I suppose so, yes.

Mr McGuinty: Do you not see a potential for conflict there?

Mr Petricone: If I understand you correctly, you are looking ahead. You are saying after I become, if and when I do become, a member, my performance on the board will be reviewed by the ministry. I think it is the same as any other job we do for the government that is subject to review by senior management or otherwise, is it not?

Mr McGuinty: You have been advised, I gather, that your job is to get in and help clear up the backlog.

Mr Petricone: Right.

Mr McGuinty: If you do not accomplish that in the eyes of whomever, that may be a factor in terms of your future advancement.

Mr Petricone: It is the same as any other shortcomings I may have in any other position within the government on which, as I said, I have been working for the last two years. The fact that this opportunity or this particular offer was made to me makes me believe that there are not very many instances when my performance has been lacking.

Mr McGuinty: I may be concerned if I were to appear before you as an appellant, for instance, and if I were to learn that your foremost objective was to clear up the backlog. My concern would be to ensure that I had a full hearing and that you carefully considered my case on its merits and made an impartial decision. I would not be overly concerned once I had the opportunity to appear before you about the speediness, within reason of course, of your reaching that decision.

Mr Petricone: You said that my foremost objective is to clear the backlog and I beg to disagree with you on that. I think my main objective is to judge each case on its merits regardless of the time or regardless of the evidence that I must consider in order to pass a reasonable, and to the best of my ability, just judgement on that case. Obviously, this is done. The reason I am sent to the hearings board is to deal with as many cases as I can possibly deal with so that the backlog that now exists diminishes or disappears entirely.

Certainly I would disagree with you that my main objective is to clear the backlog. My main objective is to act as a member of the board with its full capacities and with its full responsibilities.

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Mr McGuinty: Do you maintain your same salary?

Mr Petricone: I think I am going up one or two classifications.

Mr McGuinty: On the board?

Mr Petricone: On the board.

Mr McGuinty: Is that usual? If someone were appointed off the street, so to speak, would he receive that same salary?

Mr Petricone: I suppose. I am not very clear about this, but I understand the classification of the board members is an AM-20, and I am now at an AM-18 civil position.

Mr McGuinty: I wonder if I might take advantage of Ms Gillespie's presence to ask her as the acting director if she might have the answer to that.

The Acting Chair: Do you people agree to Mr McGuinty's question to Ms Gillespie who is not before us? Granted. Would you come up, Ms Gillespie, please.

Ms Gillespie: With respect to the board member positions, they are classified at an AM-20 position, and anybody who is in the civil service who is appointed to that position for the period of one year would be paid at the appropriate level based on the normal rules of promotion under the civil service guidelines. If somebody were hired, as you put it, off the street to do that position, he would be paid at that position level, which is AM-20. At the end of the term, if the civil servant goes back to his or her original position, then he or she would revert to the salary appropriate for that position.

Mr McGuinty: Coming back to your statement, Mr Petricone, you would be making more in this position.

Mr Petricone: I would be making more as a member of the board.

Mr McGuinty: As a member of the board. But that, notwithstanding, would be the same that a person off the street, so to speak, would receive.

Mr Petricone: A person off the street would get the same treatment I get.

Mr Hayes: I would like to comment on that last question. I think we are fortunate that we have people who already have lots of experience in the field who can fit right in. We appreciate that. I guess also you were not picked by any political party or anything. You people were chosen actually by some of the senior members of Housing because of your experience and expertise.

Mr Petricone: That is right.

The Acting Chair: Mr Petricone, thank you for appearing before us this morning.

LAURA BRADBURY

The Acting Chair: Our next nominee is Laura Bradbury, intended appointee as chair of the Social Assistance Review Board. Ms Bradbury, good morning. Your coming here was called by the third party and I do not see any member from the third party, so I will go directly to the government side. Mr Waters, sorry to surprise you.

Mr Waters: I was waiting to see what the third party had to say because it had selected Ms Bradbury for this. After all, I feel that if you are going to subject someone to the hearings, you should at least be here when the hearing takes place.

Having said that, I did have a question here and I am just trying to find it in all this. Where did it go? Is it all right to pass and then come back when I dish this thing up?

Mr Frankford: There was a decision this week about a student being able to remain on welfare.

Ms Bradbury: I read that in the paper. I have not seen the actual court decision.

Mr Frankford: This was a court decision, was it?

Ms Bradbury: Yes. I understand it was a decision of Mr Campbell in what was formerly the Divisional Court.

Mr Frankford: This is the sort of thing which would relate to the work you will be doing.

Ms Bradbury: Yes, that is correct.

Mr Frankford: Do you have any comments on the decision?

Ms Bradbury: I have not seen the decision so I would not feel comfortable commenting on it, but I understand from what I have read in the paper that the effect of the decision will impact on the system generally. If a case that raised those issues came before the board, we would look at that decision and consider that and the legislation in determining how it relates to the facts in the particular case.

Mr Frankford: Since this is the initial decision, you will have to look at it.

Ms Bradbury: Yes, that is right. I think you must know that the General Welfare Assistance Act and the Family Benefits Act provide people with a right of appeal to the courts on a question other than a question of fact alone, and so the courts may often be involved, and any decision of the court with regard to the legislation we are interpreting would be an important precedent for us.

Mr Frankford: Would you now have to make some general policy or general advice based on this?

Ms Bradbury: I think the ministry will likely take that decision and review its policy. As you have heard earlier, it would not be the board's role to make policy decisions, but any new policy change that the ministry adopted would have an impact on cases we heard at the board level.

Mr Frankford: So you have not formed any personal position on this.

Ms Bradbury: I have not. As I say, I have not read the decision and I have not read the original board decision that went to appeal, so I would not feel comfortable commenting on it at this point other than to say that from what I read in the paper, I think there will be an impact on the system generally, but that is at the ministry level.

Mr Waters: Do you find that the appeal process is intimidating for social assistance recipients?

Ms Bradbury: I think this board has gone a great distance in trying to make it not intimidating. Mainly the board has, as you probably know, 21 full-time vice-chairs. They hold hearings and of those about three are lawyer positions and the rest are all lay adjudicators. As I understand it, they are drawn from a social service background, a community-oriented background, so the people who are hearing the appeals are people who have been involved in the system and who understand the issues. I think that in itself makes it less intimidating, and that is an important principle that this board is operating from. From what I hear in the community, it results in a fairly non-threatening hearing atmosphere.

Mr Waters: What happens? Does the board sort of monitor itself, make sure that it is keeping things down to the level of the average working person or person in need?

Ms Bradbury: Yes, in the sense that they do a lot of outreach and general education, so they keep in touch that way in terms of getting feedback from the people who come before them. In the case of this board, it is more likely to be feedback from the representatives. The community clinics are involved quite often in bringing appeals to the board. As I understand it, they do quite a lot of education and outreach. That is how they get feedback about their process.

Mr Waters: Do you think this social assistance system is a fair system, that it is evolving towards it?

Ms Bradbury: I cannot comment on the system. I have read the reports, the Transitions report of the Social Assistance Review Committee that came down in 1988 and the recent Back on Track report. Both of those reports comment on the need for change in the area, and I understand that the committee that produced the Back on Track report is also looking at proposed changes to the legislation. There is a growing feeling that there is a need to reform and change the area. The way that would affect the board is, if there is new legislation we would be required to interpret and apply it fairly in any cases that come before us.

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Mr Waters: Is there any external monitoring?

Ms Bradbury: The chair position reports to the minister, so there is that kind of monitoring. I think any minister would have the ability and the right to ask for an outside review of one of its administrative tribunals. You know that I am currently with the Workers' Compensation Appeals Tribunal. When Mr Sorbara was the Minister of Labour, he requested exactly that kind of review from Coopers and Lybrand. So there is that kind of feedback or control or monitoring that is available to a minister.

Mr Hayes: The advisory group on new social assistance legislation made comments regarding people's applications being turned down and not receiving notification in writing. Of course this advisory group made a suggestion that a clear policy should be sent out to administrators and staff affirming that all decisions must be provided in writing and that person must be advised in writing of his or her right to appeal.

Can you elaborate on it and do you support that particular suggestion?

Ms Bradbury: I read that in the report and I do support it. I think from my experience at workers' compensation, we prepared a plain English guide to the tribunal that we provide to the Workers' Compensation Board. They include that notice of the right to appeal in the guide when they are advising people that their appeal has been turned down, and that tells them they have a right to appeal to the tribunal. Maybe something similar could happen with SARB and the agencies and municipalities.

Mr Frankford: Presumably MPPs' offices would help people get to the board.

Ms Bradbury: I am not sure if that has been a traditional route. I know that in workers' compensation it is a traditional route, yes. There are still some MPPs who appear and represent people in appeals and people from their offices sometimes appear. I am assuming it is similar in social assistance cases.

Mr Frankford: You are not sure.

Ms Bradbury: I am not sure, no.

Mr Frankford: Would you see a potential for conflict there?

Ms Bradbury: They are representing the person as a constituent. I do not think that in terms of the MPP or someone from his or her office appearing as a representative in an appeal hearing there is a conflict necessarily, no.

The Acting Chair: Seeing that a member of the third party is before us, Mr McLean.

Mr McLean: I wanted to ask a couple of simple questions on the review procedure. I have been involved in municipal politics for a long time and realize what goes on at the county level with regard to the social assistance review boards. In your opinion, do you think there are enough people across the province who are there reviewing some of these cases?

Ms Bradbury: Do you mean at the ministry level or at the board level?

Mr McLean: At the local level.

Ms Bradbury: I just do not really have enough information about that. I see that the numbers of appeals have increased dramatically as the recession continues. My guess is that the municipalities must be as burdened by an increased workload as the board is.

Mr McLean: How many of those would get to the provincial Social Assistance Review Board?

Ms Bradbury: I do not have those figures, I am sorry. I have read the board's annual report and I see the number of appeals they handle, but at the lower level I do not have those figures.

Mr McLean: I see. I observed you indicated that in some cases MPPs are there when the WCB cases are brought before a board—

Ms Bradbury: Very occasionally.

Mr McLean: —but I have never known of any members to go to the Social Assistance Review Board.

Ms Bradbury: That may be. I would not know. My experience so far has been in workers' compensation. I was just commenting to Mr Frankford that it occasionally happened and that given it is a similar social justice area it would not surprise me if it were similar in social assistance, but I do not have hard information about whether that happens.

Mr McGuinty: Ms Bradbury, you made reference earlier to Back on Track. In there, it is indicated I think a number of times that a policy should be clearly established dealing with the matter of decisions being provided in writing and persons being advised in writing of their right to appeal, and as well information included on how to go about beginning that appeal process.

Ms Bradbury: Yes.

Mr McGuinty: How do you comment on that?

Ms Bradbury: I commented earlier that it seems important to me that when there is a first level of decision that denies someone's application, it is very important to advise him of his right to appeal because it is a right that exists in the legislation. I would support that recommendation in the Back on Track report. I commented earlier that in the workers' compensation system, at the board level, they include information about the appeals tribunal and the right to appeal at that level. I think something similar may be important to social assistance as well.

Mr McGuinty: Can you comment on whether welfare recipients are able in practice to exercise their right to appeal?

Ms Bradbury: Do you mean whether they have the resources to do that?

Mr McGuinty: Resources or whatever is required.

Ms Bradbury: I cannot. I can only comment on the statistics I have seen. From the statistics I have read, it seems that more than half the people who appear are represented. Generally they are represented from the legal clinic community or from lawyers with a legal aid certificate, that type of representation. As you know, the legal clinics are available to people who do not have many resources.

Mr McGuinty: Back on Track also made reference to a number of instances where welfare administrators actually ignored the rules in order to, as they saw it, I guess, protect welfare recipients. The report recommends that we develop some kind of enforcement strategy to ensure that the administrators comply with the rules.

Ms Bradbury: That is a ministry concern. I think from the board's point of view what is important is general education. The way I think that would be accomplished is through publication of their decisions. That is about to happen, as I understand it. Then their decisions would generally be available to the lower-level decision-makers who can see patterns and reasons for reaching decisions the way they did, and that has an important effect. It certainly had an important effect in the workers' compensation system. I would support that move to publish the board's decisions for that reason.

Mr McGuinty: A number of articles have been published recently in the media which have been critical of the process which enables people to apply for social assistance and of the criteria that are used. I guess the criticisms are saying that the system is subject to abuse, that the necessary checks and balances are not in place. That may be partly a function of the fact that these are difficult times and people generally—I am not sure if this is a fair comment—are less charitable. What is your opinion with respect to those checks and balances? Too many people, it seems to me today, are arguing—not too many, but many people are arguing—that the system is ripe for abuse and we are not doing all we can to ensure that those in real need are the ones who get assistance.

Ms Bradbury: I cannot really comment on that. I was struck, though, when I read the Transitions report by its figures on the percentage of abuse. Their estimate was that it was less than 5%. If that is still the case, it would not suggest to me that there was a great deal of abuse. Again, that is a ministry problem. The board would not have an active role in setting guidelines or policies to deal with that.

Mr McGuinty: Do you feel the board has any role to play in raising its profile in the community?

Ms Bradbury: Yes, I think it does have a role to play in terms of general outreach and making people aware the board exists and there is a right to appeal to the board and the kinds of decisions that can be appealed to the board. I think it does have a role and I understand that the board has been quite active in that role in the past three years.

The Vice-Chair: Thank you for appearing before the committee. We wish you well.

1210

HARRY ADDISON

The Vice-Chair: Next we have Harry Addison. There is a chair right there. We have half an hour to deal with the intended appointment of Harry Addison as the vice-chair of the Ontario Racing Commission. It is a government recommendation that we have him before us, so we will start with the government party.

Mr Waters: I notice from your curriculum vitae that you have an exceptionally long time with horse racing throughout the province, because you seem to deal with all of the different tracks. Do you have the racing commission's position on drug testing as to the horses?

Mr Addison: If I can allude to the relationship between the Ontario Racing Commission and the federal government, the federal government sets the standards for drug testing. In other words, they write the book about what is admissible and usable and the racing commission in Ontario then enforces the rules and sets the penalties.

As far as a position on drug testing is concerned, we specifically are dealing with a drug right now that has some controversy associated with it and that is the drug Lasix, which is an anti-bleeding medication for horses. The commission has worked very hard on the proposed introduction of Lasix with the race tracks, with the horsemen and with all segments of the industry, the breeders, and came up with a system of the introduction of Lasix on a user-pay basis. There is no cost to the taxpayer for it.

The reason we basically promote the use of it is because it is clearly a workable drug. It is effective. It is a diuretic. The alternative is, you just open the door to other medications being used if you do not have one in place that the industry at large is comfortable with and Agriculture Canada is as well.

So, yes, we are very forceful on our administration of the misuse of drugs and yet we are very supportive of drugs we believe will enhance the industry, both making the industry viable for the investors and, of course, the welfare of the horse. Naturally the fans, the patrons, the people who make our industry tick, must be protected. So full disclosure is a very important part of it.

Mr Waters: Are there a lot of drugs used in horse racing?

Mr Addison: There are a lot of drugs that can be used but done within a regulated period of time. For instance, they have anti-inflammatory drugs that can be used up to 48 hours prior to a race. These are horses that have inflamed joints, soreness, whatever. This allows the trainer to train the horse on these drugs, but he is not allowed to run on the drug. All these guidelines are set for various drugs prior to race time. There are virtually no drugs that are admissible for race day use.

Mr Waters: This drug, Lasix, is it?

Mr Addison: Yes.

Mr Waters: What do you use an anti-bleeding drug for?

Mr Addison: What happens with horses just through exertion is that they will bleed internally. Probably 90% to 95% of all horses bleed when they race. They may bleed through the nostril, they may bleed through the mouth, but in the vast majority of cases they just bleed internally, and it affects their performance. The problem here is they choke.

What happens here is that the people do not know this. The public does not know when a horse is bleeding. For instance, the problem with the Lasix use, if it is not controlled in a proper way, is that a horse could run on Lasix one day and run very well, the next time not run on Lasix and not run very well, and if the public is not informed of this, then the better is at a big disadvantage.

What we propose in the system we have ready to go in place is that a horse must stay on it for 150 days. The betting public is made aware of it in every instance that the horse runs, and if a horse changes hands, either through claiming or through a buy-sell or whatever, he must stay on the drug if he has been already on it.

The horse is scoped, first of all, and he must be a proven bleeder. In other words, if a trainer says, "I think this horse bled," then he is scoped by a veterinarian we authorize and sanction. If he is found to be a bleeder, then the trainer must make a decision to put him on the drug. If he puts him on the drug, he must stay on the drug. It is not a performance-enhancing drug. What it does is allow the horse to perform to the best of his ability on each and every occasion that he runs. It is much fairer for the public and it is much fairer for everybody in the industry.

Mr Waters: Okay. I see other members of the caucus.

Mrs Haslam: I usually premise this by saying this is probably a dumb question, but I would like to learn as much as possible about some of the commissions we look at and not all of us know everything about all of the agencies, boards and commissions that we have. So I have this really interesting question. Do you own horses?

Mr Addison: Yes, I do.

Mrs Haslam: Do you race horses?

Mr Addison: Yes, I do.

Mrs Haslam: Is there a conflict of interest then, when you serve on the Ontario Racing Commission?

Mr Addison: No.

Mrs Haslam: Why?

Mr Addison: If my horse is involved or my trainer is involved in a situation that has to come before the commission or the steward, I naturally disqualify myself.

Mrs Haslam: But you set rules. According to this overview, you approve the appointment of race track officials and employees.

Mr Addison: That is right. They are submitted by the race track. We do not submit them.

Mrs Haslam: "Setting terms and conditions of licences; making and promulgating rules for the conduct of horse racing." It is a very powerful board dealing with racing in general. Would you concur with that?

Mr Addison: Yes, it is.

1220

Mrs Haslam: I just wondered whether people would perceive that someone who has something to gain in horse racing should actually be a member of the Ontario Racing Commission.

Mr Addison: Quite the contrary. The industry for a number of years was represented on the commission, or the commission was made up of people associated with the industry. The industry had several years of discontent. They struck the government at one stage in the game, because they were dissatisfied with the lack of knowledge the commission had as it pertained directly to their industry.

Since 1985 the commission has been made up of horsemen, of people who have an investment in the game and in the industry at large. When you talk about rule-making, although I share a rules committee, the rules are made up by a large segment of the industry. They write the rules and I may oversee the consensus.

Mrs Haslam: I have one more quick question. When you talk about the makeup of the commission, are they all horse owners or are there other people involved in racing but not as owners?

Mr Addison: At the present moment we have two new appointees and I am not positive. They have an association with the industry. One is a former driver and another one has owned horses. Whether they own horses at the present moment, I do not know. The chairman does not own any horses.

Mr Klopp: I come from the riding of Huron where we have a racetrack, Clinton. I pretend not to understand the system of horse racing. It reminds me a little of the dairy board and commissions and all that. I know, though, that you know what a dairy cow looks like and you know what a horse looks like. I know a lot of my friends enjoy racing and one of these days I am going to go along with them too.

One of the concerns that was raised by one of my constituents in the area—I am sure you know him, but I will not name him; it is not that important—was about the number of racing times they have at Clinton Raceway and other areas. I know he asked me as an MPP to make sure that they do not forget about Clinton and that they do not forget about the Dresdens of the world. I guess that is where the buck stops, at your board. Are you aware of that? I want to bring that point out since we have a couple of minutes.

Mr Addison: No question about it. Believe me, the Clintons of the world—I have forgotten neither the Hanovers nor the Dresdens nor the Barries nor the Windsors nor the Rideau Carletons. I am interested in the concern of your constituent, but one of the things I think we have established and been able to maintain at the commission is the balance between the small and large racetracks as far as race dates are concerned. We only allot dates. We do not supervise the parimutuel aspect of it. That is federal jurisdiction under the Criminal Code.

As far as dates are concerned, there is a great concentration of racetracks in southwestern Ontario, as you know. We have made it our business to ensure that these tracks are viable. Their viability is directly tied in a lot of cases to their race dates, and even more directly to the capability and quality of their management. We get involved very directly with their management and their racing profile. Their racing profile is their dates, what they can offer in a season.

I believe Clinton races very few days a year, but is a viable and healthy situation. I wish they were all as healthy. Clinton's needs, believe me, are just as important to us as the Ontario Jockey Club's needs and any other racetrack. When we look at dates for a place like Dresden, we most definitely take into consideration all those surrounding areas and the impact on every other racetrack.

If you did a survey of the racetracks in Ontario, I think they would all agree that a very satisfactory balance has

been maintained. But as you say, some people would like more race dates. They think that if they had more race days, they would be better off, but I think we have let logic be the governing factor here and from my standpoint I believe everybody is pretty happy.

IVOR HORNCASTLE

The Vice-Chair: Next we have Ivor Horncastle, the intended appointee as member, Wendaban Stewardship Authority. Welcome to the committee, sir.

Mr Grandmaître: I have just a few very short questions. Mr Horncastle, this very special authority. I call it a special authority as it has just been created by a new government. You have been nominated as a member of this authority for one year. I find it very difficult that you would not be appointed for a longer period because you will be asked to do some very serious negotiations. Maybe it is not a question; maybe it is a comment, but I find that one year is a very short period of time for such an important and new authority. How do you feel about a one-year appointment?

Mr Horncastle: I would tend to agree in that for the first target, the initial year is going to be used up more in organization and bringing people up to speed on resource management and what have you. I feel that in the first year very little will be learned by those involved. It would be a shame that just as you get them up to speed they will have to—that is the term that was set. I am in the position that I have been involved in the resource issue around Temagami for the past four to five years so I am quite aware of the matters involved, but some of the members have not been involved and it will take them quite some time to come up to speed.

Mr Grandmaître: Can you give me your thoughts on the logging operations that are going on in the Temagami area?

Mr Horncastle: In the Temagami district at the present time I do not believe there are any major logging operations taking place due to market conditions and what have you, but there have been logging operations in recent years that have been done in a manner that has proved we can log and still improve logging practiCes, rather than the old clear-cut method.

Mr Grandmaître: Do you think there should be any logging or no logging?

Mr Horncastle: I do not think there should be no logging. I think logging should take place. I believe it is needed to regenerate the forest. If you hope to maintain a pine forest, you will certainly have to log it. However, how we log it must be the important question. It has to be done very carefully and I believe it can be done that way.

Mr Grandmaître: One last question: The Minister of Natural Resources, the Honourable Bud Wildman, made a very important announcement recently in the House concerning self-government for native people. I agree that native people should be self-governed. Can you give me your thoughts on self-government?

1230

Mr Horncastle: I believe it is something the natives have been wanting for some time and I believe they should be given the opportunity. By being given these four townships over which they have total authority, I think we will be very pleased by what we see, how they govern the resource management of these four townships. They are very wise in the ways it should be managed.

Mr Waters: Is there a feasible tradeoff between the local industry and the natives in the area on land use? Do you think they could resolve that?

Mr Horncastle: I believe it can be resolved. One of our objectives at the authority was to work on a treaty of coexistence which Teme-Augama Anishnabai are very interested in. Chief Gary Potts has mentioned numerous times he wishes to work with the people where they are residing on their home land. With his efforts and the efforts of the local community and the people involved, I believe it is feasible; maybe not tomorrow but down the road, yes.

Mr Waters: In other words, it is going to take conversation and a lot of it to come to some sort of a mutual understanding.

Mr Horncastle: A lot of hard work. Yes.

Mr Waters: Actually, that was the only thing I was wondering.

Mr Wiseman: My concern is sustainability of the ecosystem and how we achieve this. Do you have any thoughts on how you might like to try and develop that or any thoughts on what your view of sustainability means in this area?

Mr Horncastle: The reasons for the stewardship authority looking at the four townships they have authority over and not allowing any further development in those four townships is exactly so they may study the sustainability of that area in terms of logging practices, increased tourism activity, hunting, trapping, fishing or increased cottaging. It all has to be studied, and that is why Chief Potts has a moratorium on logging at this time. He is not ruling logging out but he wishes to further study it before it is logged and then you realize it is not sustainable and you have destroyed something you cannot replace.

Mr Wiseman: Have you had extensive discussions with Chief Potts?

Mr Horncastle: No, not extensive.

Mr Wiseman: Have you met him at all?

Mr Horncastle: Yes, I have.

Mr Wiseman: Have you discussed any of these things with him?

Mr Horncastle: No, Chief Potts does not sit on the stewardship authority. I live very close to him and I see him every day but we do not delve into these issues unless we are at meetings.

Mr Wiseman: This could be a contentious issue. What we are experiencing is some criticism by hunters and anglers and so on of other decisions that have been made. Have you experienced any of these discussions in your area at all?

Mr Horncastle: From anglers' and hunters' organizations and what have you?

Mr Wiseman: Yes.

Mr Horncastle: It is very difficult if you are a conservationist and the anglers and hunters state they are that, just that, as are fisherman. I do not think they can really object to the route the stewardship authority wants to take in that area. Unless you know exactly what you have on the land, you cannot really allow the hunting or the fishing to take place, unless you know the numbers you are dealing with. I do not believe we have those details available to us at this time, and that is why we want to study the area.

The Vice-Chair: There being no further questions, I appreciate your coming this morning before the committee and I wish you well in your endeavours. It is very important.

I wonder if we could have unanimous consent so we can concur with the ones we had this morning.

Agreed to.

CATHERINE WHETTER

The Vice-Chair: Mr Waters moves the appointment of Catherine Whetter as chair of the District Health Council of Eastern Ontario.

Mr Frankford: I have no hesitation concurring with this, but I thought one might pick up on some of the comments she made about district health councils and representativeness.

The Vice-Chair: I was not here but I think the discussion took place when they were here. If you want to discuss it further, we could do it with regard to any of them. I do not think you would want to discuss each one of them as we go through. They have all been dealt with. I asked for unanimous consent for their approval and I do not think we should get into a discussion on each one pro or con with regard to the discussion you had with them.

Mr Frankford: I was not wishing to do that. I am willing to withdraw, but it seems she raised some interesting questions about the district health council and I wondered whether it was in order to say anything at this point.

The Vice-Chair: If you want to discuss anything with regard to the intended appointees, this is the time to do it before it is concurred with.

Mr McGuinty: I would be interested in hearing Dr Frankford. He has an interesting perspective on this matter.

Mr Frankford: As I say, I think she is a very good nominee. She has obviously given a great amount of volunteer activity to this. I think this raises questions about district health councils and whether they should be so dependent on appointment. She did not like the idea of elected positions and seemed to think there was no chance of people like her getting on through election. I wonder if that is the case. I would like to at least raise the possibility that there should be election, which could result in greater, broader representation and also perhaps raise the possibility of payment for these services.

Mrs Haslam: I am not talking directly about Ms Whetter because I was not here for her interview, but following along on what Dr Frankford has said, I am just wondering. If part of our mandate is to review and look at agencies, boards and commissions, perhaps what he wants to talk about is not correctly placed here, but should be taken note of. It is part of our mandate and in the subcommittee we should maybe consider that as one of the agencies, boards and commissions we look at, along with the red goat meat board Mr McLean wanted to look at this year.

I just feel that it is worth noting and that perhaps in the subcommittee we could discuss this and bring it out as one of the agencies, boards and commissions we review. I do not feel this is the place to do it. We are discussing Ms Whetter and I agree that we have lots of leeway to talk about appointments, but if Dr Frankford is looking at re-evaluating what we have, then let's make that note and go on.

Mr Frankford: I would just add that the district health council is one of the agencies that it has been suggested we look at as agencies. Since we are fortunate in having people with experience appear before us, I thought it might be useful to pick up on some of the things that were said.

Motion agreed to.

MICHAEL CASSIDY

The Vice-Chair: Mr Hayes moves the appointment of Michael Cassidy to the Ontario Hydro board of directors.

Motion agreed to.

SUSAN GILLESPIE

The Vice-Chair: Mr Klopp moves the appointment of Susan Gillespie to the Rent Review Hearings Board.

Motion agreed to.

LORENZO PETRICONE

The Vice-Chair: Mr Frankford moves the appointment of Lorenzo Petricone to the Rent Review Hearings Board.

Motion agreed to.

LAURA BRADBURY

The Vice-Chair: Mr Hayes moves the appointment of Laura Bradbury as chair of the Social Assistance Review Board.

Motion agreed to.

HARRY ADDISON

The Vice-Chair: Mr Waters moves the appointment of Harry Addison as vice-chair of the Ontario Racing Commission.

Motion agreed to.

IVOR HORNCASTLE

The Vice-Chair: Mr Wiseman moves the appointment of Ivor Horncastle as member of Wendaban Stewardship Authority.

Motion agreed to.

The Vice-Chair: That concludes the work of the committee this morning. We will meet next Wednesday at 10.

The committee adjourned at 1244.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 26 June 1991

The committee met at 1012 in room 228.

APPOINTMENTS REVIEW

Resuming consideration of intended appointments.

WILLIAM FLANAGAN

The Chair: Our first witness is William Flanagan, who is an intended appointee as the part-time vice-chair of the Workers' Compensation Appeals Tribunal. Mr Flanagan, welcome to the committee. Would you like to make a few brief comments before we get into questions?

Mr Flanagan: We can proceed with the questions.

The Chair: Fine. You are a selection of the official opposition, so we will begin with Mr Grandmaître.

Mr Grandmaître: After our skits last night, I do not know if I should start or not. Lately, it is nice to be last.

Professor, good morning. Tell us about yourself. I read that you applied for this job on your own. You did not receive a phone call from the Premier's office or any civil servant but applied for this job on your own. Tell us about your interest in this job.

Mr Flanagan: I teach at Osgoode Hall Law School. I have an interest in administrative law. A colleague who teaches at the University of Toronto, who formerly served as a part-time vice-chair of the Workers' Compensation Appeals Tribunal, recommended the experience to me. It was on my own initiative that I wrote to the chair of the tribunal and put my name forth for his consideration.

Mr Grandmaître: But you did have an interest in workers' compensation?

Mr Flanagan: Yes.

Mr Grandmaître: What are those interests?

Mr Flanagan: I think it is two things. First, the Workers' Compensation Appeals Tribunal has developed a very interesting body of jurisprudence to govern its decisions. I think it is quite an important precedent, not only in Ontario but probably throughout the rest of the country. Second, I think the tribunal has developed a fairly novel approach to administrative decision-making, that is, a very non-adversarial approach to decision-making. I think that is a very interesting precedent. It is also something I personally would find very interesting to be involved in.

Mr McLean: There has been a lot of discussion around the Workers' Compensation Board for some time with regard to its claims procedure. Not only that, but there seem to be problems in communication with clients. Is that a concern of yours? Are you aware of it?

Mr Flanagan: I certainly am aware of it. I imagine it is something that, as members, you hear a lot about from your own constituents. As a part-time vice-chair, I would primarily be responsible for adjudicating claims that come before the appeals tribunal. I would not be involved in administrative decisions regarding the operation of the tribunal or the speed with which it hears cases or anything of that nature, so I do not know that those questions would directly relate to my responsibilities as a part-time vice-chair, but I am certainly aware of those issues.

Mr McLean: Do you not think, as part-time vice-chair, that it would be to the benefit of all that you make some recommendations to the chairman of the board?

Mr Flanagan: I would certainly think that appropriate, and I would like to think that my input would be considered.

Mr McLean: I wish you all the best and I hope you can have some positive input in trying to correct some of the problems there.

Mr Waters: In the relationship between WCAT and WCB, who should have the final say? I would really like to hear your opinion.

Mr Flanagan: That is a complex relationship. It is one that I expect I will become much more familiar with if my appointment proceeds. As the appeals tribunal is the final appeals tribunal, I expect WCAT would have the final say on questions of interpreting the statute and adjudicating the claims that come before it.

Mr Waters: Do you feel that once a person has gone through the appeal procedure and gone to WCAT, that should be the final and binding decision, that WCB should not be able to overrule a WCAT decision?

Mr Flanagan: I think there is a fairly developed way in which the two organizations communicate with one another to ensure that there is some continuity in decision-making and also input, both ways. I do not see the tribunal as dictating policy to WCB or anything of that nature. It should definitely be a co-operative process, although at the same time the appeals tribunal must retain the discretion to make its decisions as it sees fit.

Mr Waters: The second question I have is about stress. Do you feel it should be compensable, that it should be recognized as something that falls under—

Mr Flanagan: Work-related stress conditions. Again, there is undoubtedly a whole body of jurisprudence on this, and I cannot say I am familiar with it right now. However, if the stress were directly related to work conditions, I expect it would fall within the mandate of the Workers' Compensation Act.

Mr Waters: I probably ask questions I might regret, because I have had these things. I have tried to substantiate a stress claim a couple of times now, and the key has always been to prove it is job-related. Even when a doctor, a local physician, a series of doctors say it is job-related, the worker seems to have a problem getting that message through to the board. Do you see any way of breaking

down these problems or setting up criteria so that both sides can live with it?

Mr Flanagan: I am afraid, in dealing with the specifics of that issue, I am a little beyond my depth at this point. But I would think it would be appropriate for the tribunal to develop guidelines relating to stress so that claimants before the tribunal would know what it is they have to meet in order to satisfy the criteria. That would certainly be appropriate.

1020

Mr Frankford: I notice you have quite an interest in AIDS.

Mr Flanagan: Yes.

Mr Frankford: There was a private member's bill or motion about classifying certain blood-borne diseases, including AIDS, as occupationally related. Perhaps this relates to Mr Waters's question. How much discretion does the WCAT have in setting new directions or how much do you have to get guidance? Does the industrial diseases classification panel come into this as well?

Mr Flanagan: There certainly is a risk of occupationally acquired HIV infection, particularly in health care settings. It has been documented in the United States. There are no cases yet that have been documented in Canada but it is possible, certainly, notwithstanding the practice of universal precautions in a health care setting. If you can establish that there has been a case of occupationally acquired HIV infection, I am sure that would fall within the mandate of the Workers' Compensation Act and would undoubtedly be compensable under that act. There is frequently a problem with causation, that is, determining if the infection was occupationally acquired or otherwise acquired, but providing that can be satisfied I am sure it would fall within the mandate.

Mr Frankford: I am not as familiar as I should be about which diseases can be presumed—there is a presumption of relatedness, is there not?

Mr Flanagan: As I understand it, the proposed legislation would have enacted that presumption, that in fact the infection is occupationally acquired if certain health care workers acquire HIV infection. I do not believe there is a presumption currently that states, "If you are a health care worker, we will presume that this is an occupationally acquired HIV infection." I do not know whether that is advisable. I cannot really comment on that.

Mr Frankford: From the work you have done already, do you feel that is something which is needed?

Mr Flanagan: That there is a presumption, a legislative presumption? I would think probably not, but I certainly would think that in the case of doubt, the benefit of the doubt should rest with the claimant, undoubtedly.

Mr B. Ward: You have had a number of positions dealing with the law.

Mr Flanagan: Yes, that is correct.

Mr B. Ward: Have you had any experience in dealing with injured workers in particular?

Mr Flanagan: No, I have not.

Mr B. Ward: How did you come to express an interest in this particular appointment?

Mr Flanagan: I was very interested in the operations of this administrative tribunal, because from both an academic perspective and a legal perspective, it is a particularly interesting experiment in an alternative form of dispute resolution that is a non-adversarial model. I think it is extremely important that workers who come before the tribunal understand that the tribunal is not against them or contra their interest but rather it is a non-adversarial process that is designed to provide as quick and as fair a remedy to the worker as possible. I think that is very important. I think it is also something I would very much enjoy working with.

Mr B. Ward: You do not think your lack of experience in dealing with injured worker issues would be a hindrance to your appointment?

Mr Flanagan: It is true I have not had any direct experience dealing with injured workers' claims, although I have had considerable experience, as discussed earlier, dealing with HIV-related conditions, which also is a very important issue in the workplace. It is something I have done a lot of legal work on and also other work relating to that issue. I think I do have some familiarity with workplace issues, legal issues, personal issues, and I think some of that would be appropriate, but I cannot say I have had direct experience dealing with injured workers.

Mr B. Ward: I think the issue of workers' compensation has been in the media for some time now. We are all aware of the problems that have occurred in that particular bureaucracy. Do you have any views on the workers' compensation system in Ontario?

Mr Flanagan: As you know, when the system was enacted it meant that workers could no longer sue in court for remedies for occupationally acquired illness or disability. Given that right has been removed from workers, it is very important that the workers' compensation scheme operate in an effective and a fair way to ensure that claims are adjudicated as quickly and as fairly as possible. I think that is an obligation the government has assumed in enacting this scheme and removing the right to sue before the courts. I think it is a very important obligation, one a great deal of attention should be paid to in making sure these claims are adjudicated in a fair and effective manner. I do not know that we have achieved that yet, but to the extent in which I might have an opportunity to participate, that would be my objective.

Mr Grandmaître: As you know, lately the WCB and the tribunal have been faced with some difficult decisions concerning people suffering from stress and burnout. Do you think the WCB should have the medical responsibility of declaring people as burnouts or suffering from stress? How can you people, not being medical doctors—these people can be represented by medical people. How do you feel about compensating people who have burnout or stress?

Mr Flanagan: I am not directly familiar with these cases, but I suspect that causation issues are very difficult to ascertain with respect to stress, stress undoubtedly being

caused by a multitude of factors, some work-related, some not. Conditions that can be traced to work-related stress should likely fall within the mandate of the Workers' Compensation Act, but I am sensitive to the fact that it must be difficult to adjudicate those claims in that the causation factors are very complex.

Mr Grandmaître: Do you think you should be dealing with those types of cases?

Mr Flanagan: If the stress is work-related, if it is related to a condition in the workplace, I think it is appropriate to consider these claims.

Mr Grandmaître: But do you not think everybody is suffering right now, especially us, from stress?

Interjections.

Mr Grandmaître: I am just working myself up to appear before you.

Mr Flanagan: I wish you every success.

Mr Grandmaître: Do you think you should add that responsibility or should it be left out completely and decided by a medical panel or whatever?

Mr Flanagan: I would not be comfortable with singling out a particular disability such as a stress-related condition and saying that, because the causation issues are so complex, it should no longer be dealt with under the mandate of compensation. The issue is difficult and, as you say, everyone suffers a certain amount of stress in any workplace. But I expect there are some particularly unique conditions that cause certain workplace-related stress that ought to be considered; again with the qualifier that I am not familiar specifically with the jurisprudence on the question. I must make that clear, that I am not exactly sure what the current policy is.

The Chair: Thank you, Mr Flanagan. We appreciate your appearance here today. We will, I suspect, be making a decision with respect to your appointment and Dr Singh's later this morning and you will be advised.

Mr Flanagan: Thank you very much.

1030

VARA SINGH

The Chair: The next intended appointee is Dr Vara P. Singh. Welcome to the committee. Would you like to make a brief comment before we get into questions?

Dr Singh: No, I will start at questions.

The Chair: Okay. Again, you were selected for review by the official opposition so we will start with Mr Grandmaître.

Mr Grandmaître: What are your thoughts on being the final judge or one of the final judges in declaring workers to be suffering from stress or burnout?

Dr Singh: First, I am not a medical doctor. I want to be clear on that. People do have burnout and stress on the job, but when you say it is work-related, the causation of that stress and burnout is important to ascertain. I do not think just a medical report itself would give you the answer. There is a battery of tests also available to ascertain the cause of stress and anxiety and so on.

Mr Grandmaître: Do you not think that everybody is suffering from stress today, in the workplace or it could be stress from your family, your friends or whatever? I find it very difficult to say this stress was caused by the work you are involved in. Maybe it all started five years ago with a divorce or a separation and all of these troubles have accumulated and you have reached the point where you cannot concentrate on the work you are doing, and it is going to be called workplace stress or burnout. I am not questioning your qualifications, but I find it very difficult to see how, not being a medical doctor, you can pass judgement or reach a verdict on such difficult cases.

Dr Singh: I agree with you that there are layers and layers, intertwined layers of reasons for these situations. It is indeed very difficult to assess the origin, if there is such a thing as an origin in these areas. There are a lot of grey areas as well.

When we make our decision it depends on the way we are able to communicate with the workers involved and to deal with some of their concerns and what it relates to. It is undoubtedly a grey area, but it takes a lot of caution, to take the whole person, to be able to assess that situation.

Mr Grandmaître: I see that you did not receive a phone call from anybody in the civil service. You applied for this nomination on your own. Why did you do it?

Dr Singh: I have been in the health field for over 20 years. At the same time, I have been very active in the community. I have had exposure to people who have been impaired or injured in the workplace. I have had patients who had to go on kidney dialysis because of chemical situations at the workplace, and back pain and so on. Also, I have quite a rich adjudication experience and I was interested in the tribunal's work. Therefore, I took the initiative of contacting the tribunal myself.

Mr McLean: Following the last question, how did you know this position was open?

Dr Singh: I did not know. I just called to express my interest.

Mr McLean: Who did you call?

Dr Singh: I called the secretary of the tribunal and said I would be interested in knowing more about the tribunal and would like to meet with the chairman if it was possible.

Mr McLean: How did you know who the secretary of the tribunal was?

Dr Singh: I called and said I wanted to speak to the secretary or the chairman.

Mr McLean: Are you presently working?

Dr Singh: No.

Mr McLean: From 1988 to 1990 you were involved with the Immigration Records Board of Canada. Why are you not involved in that today?

Dr Singh: I finished my term on the board.

Mr McLean: Was it a federal appointment?

Dr Singh: Yes.

Mr McLean: I am curious about the experience you would have dealing with tribunals with regard to the WCB. Have you had any experience with the WCB?

Dr Singh: No.

Mr McLean: None at all. Do you know the chairman of the board?

Dr Singh: No.

Mr McLean: You should fit in well in making a decision based on facts. I wish you well.

Mr Waters: We all love stress. I could change things around a bit on this one. Do you feel the family physician's diagnosis should be regarded with a higher degree of credibility when it comes to cases such as stress? The reason I ask is that in cases I have been involved with, the only person I could possibly see who could really say, "This is an external problem, from your home life or whatever, outside of work," or "This is from work," seems to be your first medical contact. I am wondering what your opinion would be.

Dr Singh: It is a very sensitive question. If you see a family physician—you said family physician?

Mr Waters: Yes, the local doctor. All of a sudden, for whatever reason, you have a stress problem. It is not like having your hand caught in a piece of machinery and it is gone; it takes a period of time. I just wondered whether you felt that doctor's testimony should be held in a higher regard than, let's say, a doctor whom the employer has had you see somewhere down the road.

Dr Singh: There are two ways of looking at it. A family physician would obviously know the patient who comes to him over a number of years or months or whatever, so he or she will have an idea of the emotional, mental and physical status of the person concerned. If he came and referred to a problem such as "stress," in very global terms, the physician probably would assess the problem from the knowledge he has of the person. If there were something which was untoward, as a family physician he would naturally refer the person to somebody else. I would assume the person would be referred to a specialist at the extreme end. By virtue of the fact that the person is a specialist, I think he would have the knowledge and experience to assess the person fairly to some extent.

Mr Waters: My question was basically that the specialist may not know. The specialist might say, "Yes, it's stress," but it would be the family physician who in my personal opinion would know where the stress came from. He is the day-to-day person.

The other question is the same as I asked the last person, because I find it difficult sometimes. When somebody appears before WCAT, should that be the final decision or should the WCB board of directors or whatever have the right to overturn that decision? In your opinion, where should it end?

Dr Singh: As I understand, the workers and employers who are not happy with the decision of the WCB appeal to WCAT.

Mr Waters: Yes, but—and they say it much better than I do—somewhere in here it actually says, "The principal question in the interpretation of subsection 86(n) is whether a decision of the WCB board of directors to reverse a WCAT decision is binding on WCAT." I would like your opinion on that. Does the board of directors have the right to overrule a WCAT decision?

Dr Singh: That falls into a policy area and I would not take the liberty of answering that question at this point.

1040

Mr B. Ward: You said you had some experience with injured workers; could you elaborate on that in a little more detail?

Dr Singh: I was working in the health area. I will not mention any places where I worked, but it would probably be in the résumé anyway. In the course of my work, I have had patients who have been injured or impaired in the workplace and have had to go on dialysis. I knew a few of them who did that, who had to go on dialysis and had to go through the whole process of disability pension and so on and so forth, people working in different workplaces. I had direct contact with them in understanding their feelings about certain situations and some of the difficulties they had in going through that process. That is why I am familiar with that area.

Mr B. Ward: Do you have any particular views on how the existing workers' compensation is structured? I know it has been in the media.

Dr Singh: Again, not having worked there and just being exposed to it or reading the materials which are available to the public, I could not honestly give you an answer to that.

Mr B. Ward: You do not have any particular views at this time? You do not know enough about it?

Dr Singh: Not the facts, no.

Mr B. Ward: So you have some experience with injured workers but you do not feel you have enough information about workers' comp to have a point of view.

If you are appointed to this position, what benefits do you feel your particular personality would bring to the WCAT proceedings?

Dr Singh: I think because of the background and experience I have had—as a vice-chair, first of all, I would be chairing the meeting. It is very important to have an environment where a person can relax. When we say non-adversarial we really mean non-adversarial, because people get intimidated very easily; and when they have a problem they feel more intimidated. When you have good communication and listening skills and are able to interface with the person to make him feel comfortable, that, I feel, is going a long way towards being able to assess the situation.

Mr B. Ward: That is a benefit that you feel you could bring to enhance that type of environment?

Dr Singh: Yes.

Mr Frankford: I am interested in the position you had from 1980-88 at Sunnybrook. Could you tell us what your role was?

Dr Singh: I was educational co-ordinator there, promoting programs of benefit to the patients. We call them patients not clients in a hospital setting. I did quite a lot of intensive counselling work with patients. I had done my thesis on chronic care patients and most of them were dialysis patients. That is why I am quite familiar with the dialysis situation—family and so forth, the whole thing was involved in relation to the disease.

Mr Frankford: So you were dealing mostly with patients, not with staff? Or were you co-ordinating and advocating for both?

Dr Singh: Staff as well, because I had to run educational programs for the staff to understand the patients, as well as programs for the families to understand a sick patient, for spouses to be able to understand the process, and for the employer-employee situation as well as families. I had to prepare a lot of packages to do that.

Mr Frankford: Before that you were with the Addiction Research Foundation. Getting on to stress, would you say that a proportion of the cases you saw were stress- and work-related?

Dr Singh: When you talk about alcoholics, I suppose—well, I will not zero in on one area. It is a very complex situation in a person's life. What aspect of a heavier weight at a given time could induce it? It could be a family problem, it could be a parent-child problem, it could be a work problem or it could be a combination of all three. To zero in on any one aspect would not be fair. You have to look, again, at the total person to be able to help the person. I am glad to say that I have been successful in helping some people make a good life for themselves.

Mr Frankford: I particularly wanted to seek correlations between certain occupations and alcoholism.

Dr Singh: To be honest with you, I did not look at it at that time from this perspective. I did not look into the correlation of work as related to alcohol.

The Chair: You have exhausted your time, but since Mr Hayes was obviously generous with me, I am going to give him a quick question.

Mr Hayes: This was touched on before, the situation where the Workers' Compensation Board would turn down a claim even though the worker specialist and the medical department of the corporation, for example, supported the person's claim.

How would you deal with this situation as a member of WCAT? For example, I dealt with a case a few years back of a person who had asbestosis. The corporation knew that, yes, that person was exposed to asbestos over a certain period of time and the medical people supported this person's claim, yet the Workers' Compensation Board turned it down.

How would you deal with a situation like that? Would you have to get another independent expert?

Dr Singh: Again, I am new at this thing and I do not know the workings of the tribunal, but as I understand it, the tribunal has to go by the provisions of the compensation act. I am sure such a case would be included in the act, and whatever the act provides, one could pursue it and look for other sources supporting that evidence to be able to come to a decision.

The Chair: Thank you very much, Dr Singh. We appreciate your appearance. As I said, hopefully we will be making a decision on your appointment later this morning, and the clerk or someone in the Premier's office will advise you.

At this stage, I would like to ask for unanimous consent to deal with concurrences. We are not going to be meeting for some time. Do we have unanimous consent?

Agreed to.

The Chair: We will require motions with respect to each individual appointment. Do we have a motion to concur with the appointment of Mr Flanagan? Moved by Mr Waters. Any discussion?

All in favour? Opposed?

Motion agreed to.

The Chair: May I have a motion in respect to concurring in the appointment of Dr Singh? Moved by Mr Hayes. Any discussion?

All in favour? Opposed?

Motion agreed to.

1050

ORGANIZATION

The Chair: The next matter on our agenda is a discussion of the schedule of business. Your House leaders have probably advised you that the week of 6 August has been assigned to the committee for sitting days. August 5 is the civic holiday, so we could be looking at sitting the afternoon of 6 August, and possibly 7, 8 and 9 August. I am not sure what the clerk is looking for with respect to this, because this is usually a matter that is left to the subcommittee.

Mrs Haslam: Will we be dealing with agencies, boards and commissions during that period?

The Chair: That was my hope, and certainly members of the subcommittee were asked to come today with one agency, board or commission. Hopefully we would be looking at the afternoon of 6 August to deal with the Ontario Municipal Board, which we did not complete. We have four witnesses who wish to appear before us. We could do that on the afternoon of 6 August. On 7, 8 and 9 August, we could deal with agencies selected by each party. That would be my hope. Do we have any disagreement with that approach?

Mrs Haslam: Since the gentleman who was here previously is not here, I just want to be sure that the goat red meat committee, which he seemed most interested in, was one of the suggestions.

The Chair: I think he has another one. It takes priority.

Mrs Haslam: I just wanted to protect his interest. That is one he first mentioned, the goat red meat committee.

The Chair: I guess that is it. We are going to have a quick subcommittee meeting following this and hopefully every subcommittee member has his or her selection for us. We will plan on dealing with agencies in that week.

The committee adjourned at 1051.

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Frankford, Robert (Scarborough East NDP)
Grandmaître, Bernard (Ottawa East L)
Haslam, Karen (Perth NDP)
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Wiseman, Jim (Durham West NDP)

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Drainville, Dennis (Victoria-Haliburton NDP) for Mr Silipo
Ward, Brad (Brantford NDP) for Mr Wiseman

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